



# राजपत्र, हिमाचल प्रदेश

## (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, सोनवार, ७ जून, १९६५/१७ ज्येष्ठ, १८८७

### GOVERNMENT OF HIMACHAL PRADESH HOME DEPARTMENT

No. 9-10/64-Home. III.

Simla-4, the 12th April, 1965

#### RESOLUTION

Read—*Report of Shri Gurdwara Paonta Sahib Police Firing Enquiry Commission, 1964.*

#### Observation:

The Government of Himachal Pradesh are grateful to the Single-Member Commission, Mr. Justice S. D. Khare of the Allahabad High Court, for having examined with ability the important issues which had been referred to the Commission. Government are aware of the amount of work involved in the collection and examination of the voluminous evidence placed before the Commission and take this opportunity of recording their appreciation of the labour and industry devoted to the task by the Commission in public interest.

The Government, further, take the opportunity to record their appreciation of the labour and industry devoted in public interest by all who appeared before, and assisted the Commission in the ascertainment of facts.

The conclusions of the Commission have been accepted by the Government, and suitable action is being taken, where found necessary.

These conclusions, *inter alia*, record that the incident took place when possession over the Gurdwara Paonta Sahib was being delivered to the Receiver, in due execution of a warrant of possession issued by the Civil Court, as a result of a suit filed under section 92 Civil Procedure Code, for management of the Gurdwara, because the Nihangs had taken forcible possession over the same after ejecting the Mahant; that there was sufficient justification for the use of force and the quantum of force applied was not excessive; that no acts sacrilegious in nature were committed during and after the incident; that only three Nihangs had died and 14 Nihangs were injured while 26 police personnel received injuries; and that some of the doors and windows of the Gurdwara were justifiably broken open to rescue one of the constables who had been dragged in and was being assaulted.

## ORDER

ORDERED that the Resolution together with the Commission's Report be published in the Himachal Pradesh Rajpatra for general information.

Ordered also that copies of the Resolution and the Report be released for sale to the public.

By order,  
T. S. NEGI,  
CHIEF SECRETARY.

## REPORT

of the

**SHRI GURDWARA PAONTA SAHIB POLICE FIRING  
ENQUIRY COMMISSION**

**Preliminary** The Government of Himachal Pradesh, by a Notification published in the Gazette Extraordinary dated 17th October, 1964, appointed me as Single-Member, Commission of Enquiry, under section 3 of the Commission of Enquiry Act (No. LX of 1952). The State Government, by another Notification, published in the same Gazette Extraordinary, directed that the provisions of sub-sections (2), (3), (4) and (5) of section 5 of the Commission of Enquiry Act, 1952, shall apply to this Commission.

On 22nd May, 1964, sometime in the afternoon, a most unfortunate incident occurred inside the precincts of Gurdwara Paonta Sahib (district Sirmur, Himachal Pradesh) in which, according to the official version, three Nihang Sikhs (hereinafter described as Nihangs) lost their lives as a result of police firing, three more Nihangs received bullet injuries and 11 others from the side of the Nihangs and 26 policemen on duty received injuries. According to the official version, the firing became necessary due to the high-handedness of the Nihangs, committed in the circumstances stated below. Gurdial Singh (witness No. 5) was managing the affairs of the Gurdwara Paonta Sahib as its *Mahant* till 31st March, 1964, when Jathedar Harbhajan Singh (witness No. 2), accompanied by a group of his followers, reached Paonta and dispossessed him from the Gurdwara two days later, i.e., on 2nd April, 1964. Great tension prevailed between the Nihangs on the one side and the men of Mahant Gurdial Singh on the other. Both the Deputy Commissioner and the Superintendent of Police tried to do their best to persuade them to settle the dispute between them amicably. However, their efforts failed, as the Jathedar of the Nihangs was not agreeable to the suggestions made by the Deputy Commissioner. On 20th May, 1964, two local Sikhs, namely, Santa Singh and Amar Singh, filed a suit under section 92 of the Code of Civil Procedure in the court of the District Judge, Sirmur, and obtained an interim relief in the shape of the appointment of a Receiver. The District Judge was also pleased to grant their application for police help and to inform the Deputy Commissioner, Sirmur, accordingly. Sri Kashmir Singh, Revenue Assistant, Sirmur, was appointed the Receiver. On 22nd May, 1964, the Civil Nazir, after having contacted Shri Kashmir Singh, went to Paonta to deliver possession of the Gurdwara properties to the Receiver. The district authorities,



with some additional police force, also reached there in order to see to it that the delivery of possession to the Receiver was peaceful. However, when the order of the court was read out to Jathedar Harbhajan Singh he refused to comply with it and threatened that the Nihangs would kill others or be killed themselves but would not permit the possession of the Gurdwara to be taken away from them. An application for police help was made and while the Nihangs were being asked to vacate the Gurdwara premises in a peaceful manner certain acts involving the breach of the peace were committed by the Nihangs and firing had to be resorted to under the orders of the District Magistrate. According to the official version the minimum force was used to meet the situation.

Another version of the incident, as alleged by certain sections of the public, was that the firing on the Nihangs was altogether unnecessary and there was no justification for it, that there was also no necessity for the quantum of force applied by the police, that the Nihangs were performing Akhand Path inside Darbar Sahib and the Granthi, who was reciting the Akhand Path, was shot dead, that the number of dead was far in excess of that given by the officials and that several acts of a sacrilegious nature were committed by the policemen on duty and some damage to Gurdwara property was also caused.

The terms of reference to the Commission of Enquiry were that the Commission shall enquire into and report on the following matters in relation to the aforementioned incident that took place inside Shri Gurdwara Paonta Sahib on 22nd May, 1964:—

Terms of reference.

- (a) Facts and circumstances culminating in this incident.
- (b) Whether there was sufficient justification for the use of force and whether the amount of force applied by the police was excessive under the circumstances in which it was applied.
- (c) Whether any acts of sacrilegious nature were wilfully and deliberately committed under official orders in relation to Shri Gurdwara Paonta Sahib during and after the incident.
- (d) The number of persons killed and/or injured, the nature of the injuries sustained and damage caused to any property belonging to Shri Gurdwara Sahib.
- (e) Any other matter, which, in the opinion of the Commission, is relevant to the ascertainment of facts relating to the incident.

The incident, as already stated, had taken place on 22nd May, 1964. On 6th June, 1964, by a Notification in the Gazette Extraordinary Sri Om Prakash, the Judicial Commissioner of Himachal Pradesh, was appointed as the Commission of Enquiry. Subsequently by another Notification dated 2nd July, 1964, the previous Notification of 6th June, 1964, was cancelled, and Mr. Justice Vashistha Bhargava, a Judge of the Allahabad High Court, was appointed as the Commission of Enquiry. Mr. Justice Bhargava held a preliminary sitting on 25th July, 1964. He also inspected Gurdwara Paonta Sahib on the same date and

dictated a very valuable and comprehensive inspection note. Unfortunately he fell ill thereafter, and I was appointed in his place as the Commission of Enquiry. All the parties appearing before me agreed on the date of the preliminary hearing on the 2nd December, 1964, that the aforesaid inspection note be read in evidence after I had myself inspected the locality in the presence of the counsel for the parties. Accordingly I made a local inspection the very next day, i.e., on 3rd December, 1964, and found that the damage to the Gurdwara property and the marks or depressions which were alleged to be bullet marks were exactly at the same places and in the same condition as noted by Mr. Justice Bhargava. A second local inspection was made by me much later at the request of the parties on the 7th March, 1965, after the entire evidence had been recorded and the arguments in the enquiry had started.

Procedure  
before the  
Commission.

The State Government did not lay down any rules of procedure, under the Commission of Enquiry Act, 1952, and, therefore, the rules of procedure had to be laid down by the Commission itself. The procedure was laid down in the first sitting of the Commission on 2nd December, 1964, and it was indicated that since the proceedings before the Commission were not governed by the provisions of the Code of Criminal Procedure, the Code of Civil Procedure or the Indian Evidence Act, the Commission would adopt a procedure consistent with the principles of natural justice. Witnesses were to be examined on oath and they were to relate facts about which they had personal knowledge and hearsay evidence was to be excluded. Documents like copies of post-mortem examination reports or injury reports were to be admitted in evidence without formal proof and were to be accepted as proof of facts noted in those documents subject to the condition that in any particular case the Commission may, either *suo motu* or at the request of any party, examine the witness who might have prepared the document and thus take his direct evidence.

A Press Note was issued in the newspapers inviting gists of statements from persons who might have any information relating to this incident. Copies of that Press Note were also sent to all the parties who had attended the preliminary sitting before Mr. Justice Bhargava on 25th July, 1964, and were also got pasted at important places, such as at the Notice Boards of the Collectorate, Civil Courts, Municipal Boards and at prominent places close to Shri Gurdwara Paonta Sahib for information to the public. The contents of the Press Note were also got announced by beat of drum at Paonta Sahib, through the District Magistrate, Sirmur. Persons of the following five categories were permitted to be represented by lawyers. No person falling outside these categories made any request for being represented before the Commission.

- (1) Shiromani Gurdwara Prabandhak Committee, Amritsar and Akali Dal (Sant Fateh Singh Group).
- (2) Action Committee Shri Gurdwara Paonta Sahib (Master Tara Singh Group).
- (3) Mahant Gurdial Singh.

(4) Jathedar Harbhajan Singh.

(5) Government servants.

Sri Shrawandeo for Government servants filed the gists of statements signed by each Government servant to whom the gist of statement related. Sri B. S. Chawla for S.G.P.C. (Sant Fateh Singh Group) and Sri Bahadur Singh for Akali Sikhs (Master Tara Singh Group) filed the gists of the statements of witnesses whom they wanted to examine. The gists were signed by the counsel named above and not by the witnesses. Mahant Gurdial Singh also filed the gists of statements of some witnesses. Some other witnesses filed their own gists of statements. All the witnesses who were considered to be necessary were examined. The order in which the witnesses were examined was regulated by the Commission.

All the sittings of the Commission were held in the court room of the Judicial Commissioner at Nahan. The entire oral evidence was recorded by me on 20 working days between December 14, 1964, and February 10, 1965. One witness, namely, Ajit Singh, who was lying ill in Snowdon Hospital, Simla, had to be examined on commission.

I now proceed to deal with each clause of the reference separately.

#### Clause (a) of the Reference

Gurdwara Paonta Sahib is regarded by the Sikhs to be a very sacred shrine and as such an important place of pilgrimage. According to the Sirmur State Gazetteer, Part A, 1934 Edition, page 43—

“The Sikhs have four gurdwaras in the State. Of these the chief is that at Paonta, where the tenth Guru, Gobind Singh lived for nearly five years (1741-1746). This gurdwara is on the bank of the Jumna twenty-six miles from Nahan, and was built by Wasawa Singh, Sandhanwalia, in Sambat 1882. The ruins of the fort built by the Guru still exist. The gurdwara enjoys a muafi of 258 bighas kham granted by the State, and an annual allowances of Rs. 125 and Rs. 20 from Patiala and Nabha respectively. It also enjoys a muafi in Kalsia. The chief fair is held on the full moon of Phagan (Puranmashi), when some two thousand persons assemble, the flag-staff (jhanda) is washed and a new cover put on it. Smaller fairs are held in Dusehra, Somawati Massiya and Baisakhi. The gurdwara contains a picture of the tenth Guru and of the Five Friends (*panch piyare*). The *Pahul* is given here.”

Mahant Gurdial Singh (witness No. 5) stated that the Gurdwara temple (Harmandir Sahib) of Gurdwara Sahib Paonta exists from the year 1880 Bikrami. The other constructions inside the Gurdwara Sahib near the Gurdwara temple were made from time to time.

The only witness, who has stated about the properties attached to the Gurdwara, is Mahant Gurdial Singh (witness No. 5). According to him the lands attached to the Gurdwara were situate

in four different villages. The Government had also granted a *muafi* of Rs. 119/15/6 to the Gurdwara. The annual income from the land of all the four villages was about Rs. 2,000 or Rs. 2,500. The income from the offerings at the Gurdwara amounted to Rs. 10,000/- or Rs. 12,000/-; and the income from the rent of rooms etc., was about Rs. 300 to Rs. 400 per annum. In that manner the Gurdwara had an annual income of Rs. 12,000 to Rs. 15,000. Mahant Gurdial Singh further stated that from the very beginning the Mahantship of this Gurdwara had been in his family, being heritable from father to son. Mahant Gurdial Singh also stated that he was the Mahant of the Gurdwara Paonta Sahib from the year 1939 and that before him his elder brother, and prior to that his father had been the Mahants.

Management  
of the Gur-  
dwara till  
31-3-1964  
vested in  
the Mahant.

According to Mahant Gurdial Singh, he alone had been managing the affairs of the Gurdwara till 31st March, 1964, i.e., till two days prior to his being ousted from the Gurdwara. The witness further stated that on 31st March, 1964, Jathedar Harbhajan Singh, accompanied by 20 or 30 persons of his Jatha came to Paonta Sahib. They had horses, camels and bullock-carts with them. They came to stay in the Gurdwara. The Jathedar told the Mahant that his Jatha would stay in the Gurdwara for 40 days and that he must be paid by the Mahant at the rate of Rs. 200 per day for the maintenance of his Jatha in a lump sum in the very beginning, or, in the alternative, the Mahant must hand over the keys of the Gurdwara to him and leave the Gurdwara. The Mahant did not accede to his demand, but did offer to give the Nihangs some ration. The result was that from 2nd April, 1964, the men of the Jathedar entered the shrine for doing *sewa* and forcibly ousted the men of the Mahant. On 2nd April, 1964, the Granthi of the Mahant also wanted to enter the shrine to do *sewa* with the result that the men of the Mahant and the Nihangs came in open clash. Injuries with sharp-edged weapons were received by members of both the parties. The statement of Mahant Gurdial Singh was that prior to the 2nd April, 1964, when the Nihangs unlawfully entered into possession of the Gurdwara they had nothing to do with the Gurdwara or its management.

Mahant Gurdial Singh also relied upon the following documents in support of his version:—

- (1) The order dated 19.9.1944 (copy Ex. A-12) of Sirmur Darbar recognising Mahant Gurdial Singh as the Mahant of Gurdwara Paonta Sahib.
- (2) Muafi deed dated 19th Poh, 1988 Bikrami (copy Ex. A-25) granted by Sirmur Darbar to Mahant Lahna Singh (father of Gurdial Singh).
- (3) Patta dated 1.1.1868 (copy Ex. A-24) granted by Sirmur Darbar to Sahab Singh.

On the other hand, the statement made by Jathedar Harbhajan Singh, (witness No. 2) was that Mahant Gurdial Singh and his "uncle" (who according to the witness was the Mahant prior to Gurdial Singh) were Nihangs. The witness further stated that Mahant Gurdial Singh had taken Amrit given by him about 11 or 12 years ago, when the Jathedar had visited Paonta Sahib last.

The witness also stated that when he had come to Paonta Sahib last time, i.e., 11 or 12 years ago, he found that Mahant Gurdial Singh was unable to supply ration to him in a proper manner because a committee was functioning which was controlling the affairs of the Gurdwara and which did not permit a free hand to the Mahant. The Mahant, according to the witness, made a request to him to dissolve the committee, so that he could be free to supply ration to the Nihangs. The Jathedar dissolved the committee and appointed Mahant Gurdial Singh as the Mahant of Gurdwara Paonta Sahib and also of the other three Gurdwaras in Sirmur State. Jathedar Harbhajan Singh further stated that in that manner he had entered into possession of the Gurdwara about 11 or 12 years ago, and from that time onwards Mahant Gurdial Singh was merely working as *sewadar* appointed by him. Subsequent reports, however, revealed that the Mahant was not conducting himself properly. The witness, therefore, came to the Gurdwara and got *sewa* started by his own men. Jathedar Harbhajan Singh further stated that he did not turn out the Mahant, but the latter had left the Gurdwara of his own accord.

From what has been mentioned above it is clear at Jathedar Harbhajan Singh did not dispute that Mahant Gurdial Singh had been managing the Gurdwara till 1-4-1964. He, however, based his right to possess the Gurdwara on the following facts alleged by him:—

Basis of  
Jathedar  
Harbhajan  
Singh's  
claim.

- (1) A committee was managing the affairs of the Gurdwara when the Jathedar came to Paonta about 11 years ago.
- (2) The Jathedar entered into possession of the Gurdwara after he had dissolved the committee.
- (3) Mahant Gurdial Singh had taken Amrit from Jathedar Harbhajan Singh and had become a Nihang about 11 or 12 years ago.
- (4) Mahant Gurdial Singh was merely a *sewadar* appointed by the Jathedar.
- (5) The Mahant had left the Gurdwara of his own accord after the Jathedar decided to take *sewa* from his own men and not from the Mahant.

The Mahant did not admit the correctness of any of these assertions. The contention on his behalf was that an absolutely false case was being built up to give some justification to a wholly illegal act of the Nihangs, to wit, the ouster of the Mahant from Gurdwara Paonta Sahib by force.

On the point as to what had transpired between Jathedar Harbhajan Singh and the Mahant about 11 or 12 years ago there is only the testimony of the Jathedar and the Mahant. The Mahant stated on oath that the facts stated by the Jathedar were altogether false. Two documents were also filed on behalf of the Jathedar in support of his contention. However, as will be seen presently they are of no value whatsoever, and their genuineness also is extremely doubtful. One of these documents is the register (Ex. A-4) in which the names of persons to whom Jathedar Harbhajan Singh had given Amrit is alleged to have been entered at the time the Amrit was given. The second document is a

writing (Ex. A-5) alleged to have been given by Baldeo Singh, a brother of Mahant Gurdial Singh, 11 or 12 years ago when Jathedar Harbhajan Singh had come to Paonta Sahib.

No such Committee as stated by the Jathedar.

The Statement of Jathedar Harbhajan Singh that there existed a committee to control the affairs of the Gurdwara at the time of his visit to Paonta Sahib about 11 or 12 years ago is altogether discrepant and unworthy of credence. The cross-examination of the Jathedar revealed that prior to the partition of India all the Nihangs were members of Budha Dal, which was functioning under one Baba Chet Singh. Tarna Dal, of which Jathedar Harbhajan Singh is the head, was formed after the partition of India. Jathedar Harbhajan Singh admitted that Budha Dal never obtained possession over Gurdwara Paonta Sahib and had nothing to do with it. He also admitted that he, along with other members of his Jatha, had come to Paonta Sahib for the first time about 11 years ago and found that a committee, of which Mahant Gurdial Singh was also a member, was managing the affairs of the Gurdwara. The Jathedar claimed to have dissolved that committee. In the first place, the committee (if any) had not been appointed by the Jathedar and he, therefore, possessed no right to dissolve it. In the second place, it is extremely doubtful if any such committee had existed. The witness could not even tell the names of the members of that committee. He had to admit that he did not inspect any papers of the committee as he did not consider that to be necessary. The manner in which Jathedar Harbhajan Singh claims to have dissolved that committee clearly shows that no such committee had ever existed. He stated:—

“The members of the committee were sitting in the office. I asked them to supply ration or leave the Gurdwara. They left the Gurdwara, and that is how the committee was dissolved. The members of the committee had their papers inside a box. They took away that box to Dehra Dun.”

Claim that Amrit had been given to Mahant Gurdial Singh about 11 years ago not established.

The register (Ex. A-4), in which the names of the persons to whom Amrit had been given by Jathedar Harbhajan Singh are entered, does not appear to be a reliable document. The Jathedar could not state the name of the person responsible for making various entries in the register. He frankly admitted that he could not read the entries that had been made in that register. His cross-examination revealed that after the formation of the Tarna Dal he had got another register printed in which the names of the persons to whom Amrit was given by him used to be entered. He stated that the new register was got printed 2 or 3 years after the partition of India and thereafter entries regarding the giving of Amrit were generally made in that register only.

Jathedar Harbhajan Singh claimed to have received the register (Ex. A-4) in blank form from Baba Chet Singh, the Jathedar of Budha Dal, at the time of the partition of India. The entries relating to Mahant Gurdial Singh and his brother Baldeo Singh are said to have been made in the register by Baldeo Singh himself in the presence of Jathedar Harbhajan Singh sometime in the year 1953. The name of Mahant Gurdial Singh is



entered at serial No. 193. The column in which the date of this entry should have been mentioned has been left blank. Similar is the case with most of the other entries made in this register. After two pages of this entry in the register there are other entries against which the date mentioned is of the year 1951. It is difficult to understand how the entries of 1953 were made on page 14 of the register when on a subsequent page, i.e., on page 17, we find that the entries are of the year 1951.

The various entries made in the register have not been serially numbered. For example, after serial Nos. 1 to 192 we find serial Nos. 203 to 221 and thereafter serial Nos. 193 to 202.

Jathedar Harbhajan Singh had to admit in cross-examination that Amrit is always given before a congregation. No member of the congregation before whom Amrit is alleged to have been given to Mahant Gurdial Singh was examined.

In my opinion no reliance whatsoever can be placed on the relevant entries made in this register. There is no satisfactory proof regarding the allegation that about 11 years ago Amrit had been given by Jathedar Harbhajan Singh to Mahant Gurdial Singh.

Jathedar Harbhajan Singh had to admit during the course of his cross-examination that he did not take any writing from Gurdial Singh at the time he dissolved the committee and appointed him as the *sewadar* of Gurdwara Paonta Sahib. He, however, stated that he had asked Mahant Gurdial Singh to sign the document Ex. A-5 which, according to him, was written by Baldeo Singh but the Mahant had replied that Baldeo Singh would sign the document on his behalf. The only witness to prove the writing Ex. A-5 to be that of Baldeo Singh is Jathedar Harbhajan Singh. Mahant Gurdial Singh, brother of Baldeo Singh, stated that he is familiar with the handwriting of his brother and could say that the document Ex. A-5 was not in the handwriting of Baldeo Singh.

Claim that Mahant Gurdial Singh had himself recognised the Jathedar to be in control of Gurdwara not established.

No reliance can be placed on the statement of Jathedar Harbhajan Singh so far as the writing Ex. A-5 is concerned, because he made various contradictory statements with regard to that document. In reply to a question put to him by Sri Maighowalia, his counsel, Jathedar Harbhajan Singh stated that soon after the document Ex. A-5 had been given to him by Baldeo Singh he had sent its copies to the Superintendent of Police and the District Magistrate of Sirmur. When cross-examined by the counsel for the Government servants the witness stated that he did not recollect whether or not copies of the document Ex. A-5 were sent to the Deputy Commissioner and the Superintendent of Police and others. He, however, deposed that after the document Ex. A-5 had been written he had gone to the camp of the Deputy Commissioner at Bhangani Sahib and there verbally informed both the Deputy Commissioner and the Superintendent of Police that he had taken control of the Gurdwara and that the committee had no longer anything to do with it. When cross-examined further the witness had to admit that after the document Ex. A-5 had been written he had no talk with the Deputy Commissioner or the Superintendent of Police about that

document and that he did not even meet them. He further stated that the document Ex. A-5 had been written after he had returned from Bhangani fair and not at the time of or prior to that fair.

In the circumstances the least that can be said about the document Ex. A-5 is that it does not appear to be a genuine document. No reliance whatsoever can be placed on it.

The fact that Jathedar Harbhajan Singh had come to Paonta Sahib about eleven years ago was not disputed by Mahant Gurdial Singh. The Mahant admitted that the Jathedar and his men had come to Paonta Sahib about eleven years ago and were fed by the Mahant, as was customary, and had gone back fully satisfied. The Mahant, however, stated that at that time there was no talk between him and the Jathedar about the management of the Gurdwara. According to the Mahant the Jathedar had nothing to do with the management of the Gurdwara at that time, and had not entered into possession of the Gurdwara.

What happened during the last eleven years is also significant. The Jathedar admitted that he did not come to Gurdwara Paonta Sahib during that time and the reports that he received from other Nihangs was that the management of the Gurdwara by the Mahant was proceeding in a satisfactory manner. The cross-examination of the Jathedar further revealed that he had rushed to Paonta Sahib not because the management was not proceeding satisfactorily but because he had learnt that the Government had taken possession of the land of the Gurdwara under the provisions of the Himachal Pradesh Land Abolition and Estates Act, 1953, and the Mahant was to receive a compensation of Rs. 2,50,000/- for that property within two months or so. The relevant portion of the cross-examination of the Jathedar on that point reads as follows:—

Reason for  
the visit of  
Nihangs to  
Paonta on  
31-3-1964.

“I had seen the poster that the Government had taken possession of the land of the Gurdwara at Paonta Sahib 12 or 13 days before my arrival at Paonta Sahib. I came to Paonta Sahib because I had received that poster. There was no other reason for my coming to Paonta Sahib. I went there to see how the Government had taken possession of the land of the Gurdwara. Prior to my arrival at Paonta Sahib I did not know that Mahant Gurdial Singh was mismanaging the affairs of the Gurdwara. On my arrival at Paonta Sahib I learnt that Mahant Gurdial Singh wanted to take the money for himself which money the Government wanted to give for the Gurdwara lands. I also learnt that he was not doing proper sewa of Langar and such other things. In the month of Phalgun I had also learnt that Mahant Gurdial Singh was not doing proper sewa.”

The statement made by Mahant Gurdial Singh revealed that the information which the Jathedar had received was incorrect. In fact the land of the Gurdwara had vested in the Government under the provisions of the Himachal Pradesh Land Abolition and Estates Act, 1953, about one and a half years ago, but the Mahant had been litigating in respect of that land and was also realising its profits. The compensation for the land had not been determined till the month of December, 1964, when Mahant Gurdial Singh was examined as a witness.

The information received by Jathedar Harbhajan Singh about the amount of the compensation fixed and the time when it was to be received by the occupant of the Gurdwara was incorrect, but it appears that Jathedar Harbhajan Singh had put his faith in that wrong information and was eager to get that money as one in possession of the Gurdwara.

In the result I find that from the evidence which has been led before me it appears that the Gurdwara at Paonta Sahib used to be managed by the Mahants, that the office of the Mahant was held by members of one and the same family one after the other, that prior to Mahant Gurdial Singh his father had been the Mahant of the Gurdwara, that Mahant Gurdial Singh had been the Mahant of Gurdwara Paonta Sahib from the year 1939, that Mahant Gurdial Singh remained in possession of the Gurdwara and all its properties till 31st March, 1964, and that Jathedar Harbhajan Singh or the Nihangs had nothing to do with it till 2nd April, 1964.

The statement made by Jathedar Harbhajan Singh that after the arrival of his Jatha at Paonta Sahib Mahant Gurdial Singh and his men had left the Gurdwara Paonta Sahib of their own accord and had not been ousted by him and his followers does not appear to be correct. The following statement made by him is hardly credible:—

“I asked him (the Mahant) to make arrangements for us but the Mahant said that he would not make any arrangement for us. Two or four days thereafter Mahant Gurdial Singh of his own free will went out of the Gurdwara and we started managing the affairs of the Gurdwara.”

Mahant and his men did not leave the Gurdwara of their own accord. They were forced out by the Nihangs on 2-4-1964.

On the other hand, the statement made by Mahant Gurdial Singh on this point appears to be more probable. His statement was that he and his men were forcibly ousted by the Nihangs on 2nd April, 1964. According to the Mahant, Jathedar Harbhajan Singh, accompanied by 25 or 30 persons of his Jatha, arrived at Paonta Sahib on 31st March, 1964, and told him that they would stay at Paonta Sahib for 40 days, that he must arrange for their expenses which will be at the rate of Rs. 200/- per day and that the entire amount thus needed for their entire stay must be paid to him all at once. Mahant Gurdial Singh could not, and did not, agree to these terms. He was only prepared to give them reasonable ration. On 1st April, 1964, Jathedar Harbhajan Singh and the members of his Jatha entered the Gurdwara Paonta Sahib. According to the Mahant his men and Jathedar Harbhajan Singh remained inside Gurdwara Paonta Sahib on that day, but on the evening of 2nd April, 1964, when his Pujari Karam Singh wanted to go inside Darbar Sahib to perform *sewa* he was attacked by the Nihangs and they caused injuries to him. The Nihangs thereafter forcibly ousted all the men of Mahant Gurdial Singh from the Gurdwara.

It is clear from the statement made by Jathedar Harbhajan Singh himself that from 2nd April, 1964, he and the men of his Jatha remained in exclusive possession of the Gurdwara at Paonta Sahib. No Mahant could be expected to leave the Gurdwara and all its properties to any Jatha of the Nihangs unless he had been forced to do so.

The incidents  
of 2-4-1964.

In this connection what seems to have happened on 2nd April, 1964, might also be considered. Apart from the statement of Mahant Gurdial Singh, there is the evidence of Sri Kapur Chand, S.H.O., Paonta, (witness No. 11). According to him, on 2nd April, 1964, Mahant Gurdial Singh lodged a written report at police station Paonta at 5-40 p.m. under section 448 I.P.C. alleging that he had been forcibly dispossessed by Jathedar Harbhajan Singh and other Nihangs from the Gurdwara on 2-4-1964. The witness proceeded towards the bazar to investigate about the truth of the allegations contained in the report. He heard the sound of a whistle coming from the side of the Gurdwara. He went there, and on reaching near the Deorhi Gate he could see that there had been some scuffle amongst several people inside the Gurdwara. The Nihangs, who were armed with swords, spears, bows and arrows, were mounting guard outside Darbar Sahib. The Superintendent of Police and some police constables had reached near the Deorhi Gate even before the S.H.O. could arrive. Soon after the arrival of the S.H.O. people calmed down. A case under section 148/149 of the Indian Penal Code was started against certain Nihangs and also against some members of the party of Mahant Gurdial Singh. Gajgaiya Singh, Daya Singh and Hari Singh from amongst the Nihangs, and Karam Singh, Mahendra Singh, Gurbachan Singh, Amar Singh, Narain Singh and Lal Singh of the party of the Mahant were sent up for medical examination and their injury reports are Exs. A-71 to A-79 on the record. An examination of the injury reports reveals that spears and sharp-edged weapons had been used by the parties at the time of the incident.

It is not necessary to determine as to which party was at fault when this incident took place. However, it is clear from the injury reports Exs. A-71 to A-79, prepared on 2nd April, 1964, and the statements made by Mahant Gurdial Singh (witness No. 5), Sri Kapur Chand S.H.O. (witness No. 11) that on the evening of 2nd April, 1964, there had been some sort of a fight between the followers of the Mahant on the one side and the Nihangs on the other, during the course of which spears and sharp-edged weapons were used and members of both the parties received injuries.

Jathedar Harbhajan Singh and other Nihangs were bound to have known about the incident which took place inside the Gurdwara precincts on 2nd April, 1964. However, both the Jathedar (witness No. 2) and Nihal Singh Granthi (witness No. 1) denied that any such occurrence had taken place and that any of the Nihangs had received any injury. Mohinder Singh Nihang (witness No. 4) also did not admit any such incident, and attempted to explain away the injuries of the Nihangs by stating that they might have received them due to their having been kicked and bitten by horses or due to fall from horses.

The denial of the incident of 2nd April, 1964, by the Nihangs or the explanation given by Mohinder Singh (witness No. 4) regarding the injuries sustained by Gajgaya Singh, Daya Singh and Hari Singh, three of the Nihangs on 2nd April, 1964, is far from satisfactory. There remains, no doubt that an incident as alleged

by Mahant Gurdial Singh did occur on 2nd April, 1964, and he and his men had been forcibly ousted from the Gurdwara on that date.

In the result I find that Mahant Gurdial Singh and his men did not leave the Gurdwara of their own accord but did so because they were forced out from there by the Nihangs.

It was contended by Sri B. S. Chawla, learned counsel for S.G.P.C. (Sant Fateh Singh Group) that Gurdwara Paonta Sahib having been built in the sacred memory of Guru Gobind Singh at a place where the Guru had lived for about five years the Nihangs, who generally described themselves as sons of Guru Gobind Singh and are known as "*Guru-ki-Fauj*" had every right to rescue it from the "profane" hands of a Mahant. He tried to strengthen his arguments by quoting the facts of Nankana tragedy which occurred in the year 1921, a record of which is to be found in the judgment in *Mahant Narain Das v. Emperor*, reported in A.I.R. 1922 Lahore, page 1. What he tried to impress was that it was not for the first time in the history of India that the Sikhs had tried to take possession of a sacred Gurdwara built in the memory of Guru Gobind Singh.

No legal right to dispossess forcibly.

In order to fully understand this argument one has to see who the Nihangs are and what is the nature of their organisation. For that I have to rely mainly on the statements made by the witnesses before the Commission. Nihal Singh Granthi (witness No. 1) stated that all the Nihangs are known as "*Guru ki Fauj*" (the army of Guru Gobind Singh). They keep on moving from place to place. They get their ration from the Gurdwaras which they visit. When they move on from one Gurdwara to another, they get their ration from the Gurdwara which they reach. They also keep arms with them. According to Nihal Singh Granthi, the arms that the Nihangs keep with them are swords and *chakkars* (iron discs)—*chakkars* being carried by some of the Nihangs inside their turbans. The witness incorrectly stated that the Nihangs did not keep any other arms. From the statement made by Jathedar Harbhajan Singh (witness No. 2) it appeared that some of the Nihangs are also armed with *takws* (axes), bows and arrows. According to Mohinder Singh (witness No. 3) some of them are armed with *kotla Kamund* also.

Nihangs and their organisation.

When cross-examined further about the Nihangs, Jathedar Harbhajan Singh stated that there are two Dals amongst them. The older Dal, which exists from before the partition of India, is known as "Budha Dal", while the other Dal which was formed after the partition of India is known as "Tarna Dal". Jathedar Harbhajan Singh belongs to Tarna Dal. The Nihangs mostly keep on moving about from place to place and from Gurdwara to Gurdwara. They keep horses, camels and bullock-carts with them when they move in a Jatha. He further stated that:—

"All the Nihangs who are in my Jatha obey me and I make arrangements for them."

New Nihangs are formed by giving them *Amrit*, which is always given before a congregation by the head of the Nihangs. Jathedar Harbhajan Singh claims to have given *Amrit* to 400



or 500 people. He also stated that there are several thousand Nihangs in his Dal, namely, Tarna Dal. It is also clear from his statement that no register is maintained by the Nihangs to indicate how many members are there in Tarna Dal and what property the Dal possesses. The Nihangs, however, seem to be very religious and devoted people and in their Jatha there are always some who can perform all the rituals inside a Gurdwara. They are respected for their religious zeal. Whenever they visit any Gurdwara the management always feeds them. According to Mahant Gurdial Singh (witness No. 5), that is so done because it is always proper to feed visitors, and it becomes all the more necessary in the case of Nihangs as they are quarrelsome people and start quarrelling if they are not properly looked after.

There is nothing in the statements made by any of the witnesses before the Commission to show that the Nihangs had any right to take possession of Gurdwara Paonta Sahib, which was being managed by a Mahant, on 2nd April, 1964. Jathedar Harbhajan Singh frankly admitted during the course of his cross-examination that Budha Dal had no control over the Gurdwara at Paonta Sahib. Jathedar Harbhajan Singh claims to have taken some interest in the affairs of Gurdwara Paonta Sahib only about 11 years ago. Apparently he had no legal right to do so. He tried to base his claim on certain facts which could not be established.

There is nothing in the case of *Mahant Narain Das v. Emperor*, reported in A.I.R. 1922 Lahore, page 1, to show that the Nihangs could have any legal right to take possession of the sacred Gurdwaras of the Sikhs. The Nankana tragedy occurred in the year 1921 because some of the Akali Sikhs took forcible possession of the *Janam Asthan* Gurdwara at Nankana after driving away the men of the Mahant from the Gurdwara and closing its doors. Immediately thereafter the Mahant sent some of his men armed with guns and they shot down 130 Akali Sikhs in order to regain possession of the Gurdwara. One plea of the Mahant that he acted in the exercise of the right of private defence of property was, in the peculiar circumstances of the case, not accepted by the Court. The Mahant was convicted for murder under section 302 read with section 149 of the Indian Penal Code but was sentenced to life imprisonment only because—

“He was suffering doubtless under a deep sense of wrong and helplessness and it is not surprising that he lost his head and acted as he did”.

In my opinion the abovementioned case is of no help whatsoever in support of the contention that the Nihangs could take possession of any Gurdwara they liked after having thrown out by force the Mahant who had been managing it.

Nihangs only remained in possession of Gurdwara Paonta Sahib from 2-4-64

Another argument advanced by Sri B. S. Chawla, learned counsel for S.G.P.C. (Sant Fateh Singh Group) was that the circumstance whether or not the Nihangs had any legal right to take possession over the Gurdwara Paonta Sahib is hardly material because long before the material date (i.e., 22-5-1964)



the Nihangs had undisputedly dispossessed the Mahant and were in exclusive possession of the Gurdwara right from 2-4-1964 and no one had any right to dislodge them from the Gurdwara except in due process of law. There is a good deal of force in this argument. It need not be discussed in detail because this proposition was not disputed by any party appearing before me.

to 21-5-64.

I now proceed to examine the conditions prevailing at Paonta after the arrival of the Nihangs and till the date of the firing, that is to say, during the period from 31st March, 1964, to 22nd May, 1964. The case of the Government servants is that a very serious law and order problem had arisen after the arrival of the Nihangs at Paonta and great tension prevailed which the authorities (particularly the District Magistrate) tried their best to ease. Sri K. R. Chandel, I.A.S. (witness No. 47), Joint Secretary to Himachal Pradesh Government, Simla, was at that time the District Magistrate of Sirmur. He described the law and order situation prevailing upto 3-4-1964 in the following words:—

The situation at Paonta Sahib between 2-4-64 and 21-5-64.

“Mahant Gurdial Singh had been in the possession of Gurdwara Paonta Sahib right upto 31st March, 1964. On 1st April, 1964, I received a telephonic message from the Superintendent of Police Sirmur that a batch of Nihangs had arrived at Paonta. The report that I had received from the S.P. further said that the Nihangs had forcibly ousted the Mahant and taken possession of the Gurdwara. I asked the S.P. to make necessary police arrangements for maintaining law and order at Paonta. I also asked him to proceed to Paonta to take stock of the situation and I also directed my Revenue Assistant Sri Kashmir Singh to proceed to Paonta to study the situation. In compliance with my directions both S.P. Sirmur and Sri Kashmir Singh went to Paonta on 2nd April, 1964. On the evening of the 2nd April, 1964, I received a telephonic message from the S.P. Sirmur from Paonta that there had been a marpit inside the Gurdwara between the Nihangs and some men of Mahant Gurdial Singh. On hearing that I instructed the S.P. to employ additional police force at Paonta to maintain law and order there and to keep control over the situation. 15 or 20 minutes thereafter I also rushed on to Paonta and reached there at 8.30 in the evening. On my arrival near the Gurdwara I found that people had collected outside the Gurdwara on the roadside and they seemed to be agitated about the situation. I also found police force outside the Gurdwara. The S.P. was also standing there. I had a talk with the S.P. and from him I learnt that marpit had ended and calm prevailed inside the Gurdwara. Thereafter I entered the Gurdwara premises through the Deorhi Gate. The S.P. was also along with me. On entering the Gurdwara premises I found that armed Nihangs were mounting guard on Darbar Hall and a few Nihangs were inside Darbar Hall. I enquired from the Nihangs who were mounting guard as to where the Jathedar was, and I was told that he was resting at that moment. Thereupon I told them that they

should inform the Jathedar about my arrival and that he should see me at the Rest House next morning .....

The next morning I came to know that two criminal cases had already been registered with regard to the incident which had taken place on the previous day and also with regard to the ousting of the Mahant. One case had been registered under section 448 I.P.C. and the other case was registered under section 148/149 I.P.C. I also conveyed a message to Mahant Gurdial Singh to meet me at the Rest House. At about 9 a.m. in the morning the Jathedar accompanied by a few Nihangs arrived there. The Mahant also reached there and I had a talk both with the Jathedar and the Mahant. Since I had known that two criminal cases had been registered I did not like to discuss anything about the incident. I only suggested to them that it would be better for them to settle any dispute which existed and come to an amicable settlement. I could not succeed because the Jathedar was not agreeable."

The statement about the situation as it existed at Paonta on 2nd April, 1964, as detailed by Sri Chandel finds corroboration from the statements made by Sri Kapur Chand, S.H.O. (witness No. 11) and Sri Kashmir Singh, Revenue Assistant, (witness No. 7). The joint report (Ex. A-19) dated 2nd April, 1964, submitted by the Superintendent of Police and Sri Kashmir Singh reads as follows:—

"We reached Paonta this morning at about 8 a.m. Mahant Gurdial Singh and his brother Shri Baldev Singh were contacted. He complained that the Nihangs had ousted him from Gurdwara. He was told to make report at P.S. Paonta or a complaint in writing, but must not take law into his own hands and do anything to disturb the peace. He assured that he will not do anything which will result in breach of peace.

Jathedar Harbhajan Singh objected to the behaviour of Mahant Gurdial Singh and urged that he was not managing it properly. Besides the income of the Gurdwara was being utilized for his own benefits. Since he was not functioning properly so they had taken over the Gurdwara. He claimed that being the army of the Guru all the Gurdwaras belong to them and that it was part of their function to take over Gurdwaras which did not function properly. He was told that he should not take the law into his own hands. He assured that he will have recourse to law.

Both the parties were told in clear terms that the law would take its own course if anyone tried to break it.

Sd. Kashmir Singh  
Mic. (R.A.)  
2-4-1964

Sd. Krishna Chand  
S.P. Sirmur  
2-4-1964"

Tense Atmosphere. D. C. tried his best for an amicable

The Deputy Commissioner, Sri K. R. Chandel, and the Superintendent of Police, Sri N. K. Singhal, (witness No. 42) have stated that during the period between 3rd April and 22nd May, 1964, they tried their best to secure an amicable settlement

between the Mahant and the Nihangs but they were not successful. settlement. The Deputy Commissioner suggested to the two contending parties to agree to the appointment of a committee for managing the affairs of the Gurdwara. Jathedar Harbhajan Singh, who was already in possession of the Gurdwara and had ousted the Mahant, did not agree to the formation of any such committee. It is clear from the cross-examination of Jathedar Harbhajan Singh that he had met the Deputy Commissioner several times before 22nd May, 1964, both at Nahan and at Paonta. He further stated—

“The Deputy Commissioner used to tell me every time I met him that I should get the matter amicably settled and we should not fight with each other. The Deputy Commissioner had told me that a committee of the local Sikhs should be formed to manage the affairs of the Gurdwara but I did not agree to his proposals. I told him that I shall have a committee of my own choice to which the Deputy Commissioner did not agree. I also did not agree to the Deputy Commissioner’s proposals.”

To the same effect is the statement made by Mahant Gurdial Singh (witness No. 5) who stated as follows:—

“After my dispossession from the Gurdwara and till the order of the civil court was served on me I had met the Deputy Commissioner and the Superintendent of Police of the district several times, both at Paonta and Nahan . . . . . They used to tell both the parties that we must not fight each other. The Deputy Commissioner had at one time suggested that a committee should be formed to manage the Gurdwara. I agreed to that suggestion. Jathedar Harbhajan Singh did not accept that suggestion. He stated that he was not prepared to give up possession of the Gurdwara at any cost.”

Mahant Gurdial Singh stated that during the period 1st April, 1964, to 22nd May, 1964, he had lodged several reports against the Nihangs and that his Langri, Ran Singh, his Granthi, Karam Singh, and Mohinder Singh had also lodged reports against them.

Several reports lodged against the Nihangs.

The statement made by Sri Kapur Chand (witness No. 11), S.H.O. Paonta, on the basis of the entries made in the daily diary, shows that the Mahant and his men kept on lodging reports against the Nihangs upto 14th May, 1964. According to the witness, on 17th April, 1964, Ran Singh Langri, who used to work inside the Gurdwara during the management of Mahant Gurdial Singh, lodged a report that he had been turned out from the Gurdwara on 3rd April, 1964, and the lock of his room had been broken open by the Nihangs. On 18th April, 1964, Mahendra Singh, another man of Mahant’s party, lodged a report at the police station that the Nihangs claimed that the land of Mahant Gurdial Singh was the land of the Gurdwara Paonta Sahib and they wanted to cut fodder from that land for their cattle. On 21st April, 1964, Karam Singh Granthi lodged a report at the police station Paonta that the Nihangs were not permitting him to enter into the Gurdwara and that the locks

of his two rooms had also been broken open by the Nihangs. On 3rd May, 1964, Ran Singh Langri lodged a report at police station Paonta that two or three Nihangs had taken away his dog from him near river Jamuna at about 6-30 a.m. on that day. On 7th May, 1964, a Karkun of Mahant Gurdial Singh lodged a report that the Nihangs had gone to the cattle-shed of Mahant Gurdial Singh and had started counting his cattle at that place and that they had threatened to beat him when he enquired from them the reason for counting those cattle. On 14th May, 1964, Mahant Gurdial Singh lodged a written report at the police station Paonta that whenever the Nihangs passed in front of his house they displayed their swords or spears and also raised slogans. He also mentioned in that report that he and members of his family apprehended danger from them.

Demonstration of use of arms by Nihangs on 3-5-1964.

The Nihangs organised a big religious Diwan on 3rd May, 1964, on the occasion of the birthday anniversary of Baba Ajit Singh. That fact is not disputed. Sri Kapur Chand, S.H.O. (witness No. 11) stated that during the course of his discourse inside Darbar Sahib on that day Jathedar Harbhajan Singh said that the Nihangs would not leave possession of the Gurdwara and that they would either kill others or be themselves killed. The S.H.O. further stated that on that very day after mid-day the Nihangs demonstrated their skill in the use of arms under the leadership of Nihang Daya Singh. The art of using lances, swordsmanship, the use of *Gatka* and the use of bows and arrows were demonstrated.

When cross-examined on these points Jathedar Harbhajan Singh stated that a Diwan was held at the time of the birthday anniversary of Baba Ajit Singh and he had stated in the Diwan that the Deputy Commissioner wanted to become the head of the proposed committee and that he was not agreeable to such a committee. He stated that he did not say at the time of the Diwan that he would not permit anybody to enter the Gurdwara and that he would either kill or be killed. As regards the demonstration of the use of arms, which according to a poster (Ex. A-2) admittedly circulated by the Nihangs on that occasion was to be under the direction of Daya Singh, the statement of Jathedar Harbhajan Singh was that it was wrongly mentioned in the poster that Daya Singh would be in charge of the programme. The fact was that Udai Singh was in charge of the programme. He further stated that the use of the lances was demonstrated by those who were on horse-back, but other items of the programme, such as the demonstration of the use of *chakkars*, bows and arrows, were cancelled because the experts in the art of the use of these arms were to come from outside but did not arrive. The witness admitted that Daya Singh Nihang was present in Paonta on the day of the birthday anniversary of Baba Ajit Singh.

In view of the contents of the poster, (Ex. A-2) issued by the Nihangs themselves and the unsatisfactory explanation given by Jathedar Harbhajan Singh why most of the things which had been written in the poster were incorrect, I see no reason to disbelieve Sri Kapur Chand S.H.O. when he stated that the

programme for the day as mentioned in the poster had been followed and the use of arms had been demonstrated by Daya Singh and others.

As regards the speech of Jathedar Harbhajan Singh made on the occasion of the birthday anniversary of Baba Ajit Singh on 3rd May, 1964, there is the solitary statement of the S.H.O. Sri Kapur Chand, who did not record any note of that speech. He claims to have heard the speech from outside Gurdwara precincts. It would, therefore, not be at all safe to hold on the basis of the testimony of this witness as to what Jathedar Harbhajan Singh had stated in the Diwan on that day. However, from what had happened on 2nd April, 1964, when the Mahant was dispossessed from the Gurdwara and what Jathedar Harbhajan Singh, during the course of his cross-examination, himself admits to have stated on subsequent occasions there can be no doubt that Jathedar Harbhajan Singh was eager to retain possession over the Gurdwara and was not prepared to allow anyone else to enter into possession of the same. It has already been observed that he did not agree to the suggestion of the Deputy Commissioner that a committee be formed to manage the affairs of the Gurdwara. His original programme according to his own statement was that he would stay in Gurdwara Paonta Sahib for forty days only. However, after having dispossessed the Mahant on 2nd April, 1964, he continued to stay there for a longer period. His statement in cross-examination that the Mahant wanted to remain in possession of the Gurdwara at least for two months to enable him to receive Rs. 2,50,000/-, the full compensation amount, from the Government clearly reveals the working of his mind. In all probability by remaining in possession of the Gurdwara he wanted that the money which the Government might give as compensation should come to him and should, in no case, go to the Mahant. On 22nd May, 1964, he along with other Nihangs had been arrested. He had remained in jail for two months when it was decided to release all the Nihangs on personal bonds. In that connection the Jathedar made the following statement during the course of his cross-examination:—

“When I was released from jail I had informed the Deputy Commissioner that I would occupy the Gurdwara again, and that in case I was not permitted to occupy the Gurdwara I should not be released from jail”.

On 2nd April, 1964, he was brought from jail before the Commission (Mr. Justice Bhargava), and at that time he met for the first time the men of Sant Fateh Singh's party who wanted to take part in the proceedings before the Commission. The talk which Jathedar Harbhajan Singh had with the members of that party has been described by him in the following words:—

“I had enquired from those people whether they wanted to take possession over the Gurdwara and the reply given to me by them was that they did not want to take possession over the Gurdwara. I had put that question to them because I was not prepared to talk to them in case they also wanted to take possession over the Gurdwara”.

Contents of speech of Jathedar made on 3-5-1964 not established.

But Jathedar bent on retaining possession over the Gurdwara.

From what has been stated in the preceding paragraphs it is clear that Jathedar Harbhajan Singh was bent upon retaining possession over the Gurdwara at Paonta Sahib and was not prepared to allow anyone else to enter into possession of the same. Even then it may not be safe to rely on the solitary statement of Sri Kapur Chand S.H.O. (witness No. 11), on the point that as early as 3rd May, 1964, Jathedar Harbhajan Singh had stated at the time of the Diwan held inside Gurdwara precincts that the Nihangs would either kill or be killed rather than allow others to take possession of the Gurdwara.

It is clear from the statement made by Santa Singh (witness No. 35) that the public at Paonta was not satisfied with the atmosphere prevailing inside Gurdwara Paonta Sahib.

Several cases had been registered against the Nihangs but the Superintendent of Police and the District Magistrate were eager that in view of the fact that the dispute related to a religious institution there should be amicable settlement between the parties. It is clear from the statement made by Sri N. K. Singhal, Superintendent of Police, Sirmur, (witness No. 42) that the cases against the Nihangs were not investigated because the authorities wanted to proceed slowly and with proper care and caution.

In the result I find that during the period 2nd April, 1964, and 22nd May, 1964, a tense atmosphere had been created at Paonta because of the action of the Nihangs in forcibly dispossessing the Mahant from the Gurdwara. The Mahant did not sit idle after the incident of 2nd April, 1964, and he and his men kept on lodging reports against the Nihangs. The situation at Paonta during the aforesaid period was, therefore, surcharged with tension and although nothing serious happened, the probability of a serious clash any time between the men of the Mahant and the Nihangs could not be ruled out. It must have become a great headache for the district authorities, particularly because the normal police strength at Paonta was one Sub-Inspector, one Assistant Sub-Inspector and 12 constables. An additional police force of 15-20 constables had to be sent there after the incident of 2.4.1964.

After 15-5-1964 arrival of fresh batches of Nihangs at Paonta expected.

From 15th to 18th May, 1964, three wireless messages (Exs. A-100, A-101 and A-102) were received by the Superintendent of Police, Sirmur. The first wireless message (Ex. A-100) is dated 15th May, 1964, addressed to the Superintendent of Police, Amritsar, D.I.G., C.I.D., Chandigarh, and Superintendent of Police, Sirmur. The second wireless message (Ex. A-101) is dated 16th May, 1964, from Superintendent of Police, Sirmur, to Superintendent of Police, Bhatinda, and the A.I.G., C.I.D., Simla. The third wireless message (Ex. A-102) was from A.I.G., C.I.D., Simla, to Senior Superintendent of Police, Amritsar, Superintendent of Police, Bhatinda, D.I.G., C.I.D., Chandigarh, and Superintendent of Police, Sirmur. The information that was being received by Superintendent of Police, Sirmur, was that more batches of Nihangs were expected to reach Paonta. No Jatha of Nihangs actually arrived at Paonta till 22nd May, 1964. However, as stated by Sri N. K. Singhal, precautionary measures had to be taken by the police. He, therefore, made a request to the Inspector-General of Police, Himachal Pradesh, for reserve



police during the course of a telephonic conversation between him and the Inspector-General of Police, Himachal Pradesh, on the 18th or 19th May, 1964, as a result of which it was arranged that one extra reserve was to be sent from Mahasu to Nahan. A reserve force of 25 armed constables was accordingly despatched from Mahasu and arrived at Nahan on the evening of 21st May, 1964. Some of the police constables, who arrived from Mahasu, were sent to Paonta on the night of 21st May, 1964, so as to reach there before the anticipated delivery of possession to the Receiver.

Reserve Police force requisitioned on 18-5-1964. It arrived on 21-5-1964.

The action of Sri N. K. Singhal, Superintendent of Police, Sirmur, in making a request for a reserve force has been seriously criticised by Sri B. S. Chawla, learned counsel for the S.G.P.C. (Sant Fateh Singh Group) on the ground that these people had been requisitioned by the Superintendent of Police as a result of a conspiracy to massacre the Nihangs on 22nd May, 1964. However, in view of what has been stated in the preceding paragraphs and what is immediately to follow the charge levelled against the Superintendent of Police is not at all justified.

Criticism by Sri B. S. Chawla, Counsel for S.G.P.C. not justified.

Nothing could be pointed out before me in the conduct of the district authorities or any of the officers posted at Paonta or Nahan upto the period ending on 17th May, 1964, to show that they acted in a manner which revealed any bias or ill-will against the Nihangs. On the other hand, it is abundantly clear from the evidence led before me that both the Deputy Commissioner and the Superintendent of Police were trying their level best to do everything possible to ease the situation. The Deputy Commissioner always impressed upon both the parties, that is to say, Mahant Gurdial Singh and Jathedar Harbhajan Singh, whenever he met them, the need of an amicable settlement between them.

The request made by the Superintendent of Police, Sirmur, to the Inspector General of Police, Himachal Pradesh, for sending police reserve to Sirmur does not, in the circumstances of the case, appear to be unreasonable. The cross-examination of Sri Singhal, (witness No. 42) Superintendent of Police, Sirmur, revealed that the sanctioned strength of the police personnel for the district of Sirmur in the year 1964 was roughly about 200 and it included all the strength distributed over the various police stations and also included the police personnel who were on leave and training. The Superintendent of Police stated that while requisitioning an extra police force he was concerned only with the police personnel available at Paonta and Nahan for these duties. The police personnel at Nahan available for duties at Paonta could not have been more than 20 or 25. About 15 or 20 extra policemen had been deputed at Paonta even before 15th May, 1964.

The Superintendent of Police further made it clear during the course of his cross-examination that he did not make any request for an armed reserve. He had made a request only for reserve police force. The arms and equipments of police personnel of the reserve depend on the nature of the duties which they are sent to perform.

The prevailing tension at Paonta on 18th May, 1964, was such

that after he had received the news that more Jathas of the Nihangs were expected to reach Paonta from Amritsar, Bhatinda and other places it was quite reasonable for the Superintendent of Police to have asked for reserve police and it is, therefore, not at all surprising that an armed reserve force was sent from Mahasu to Nahan, reaching Nahan on 21st May, 1964.

Government  
servants ver-  
sion of events  
between  
20-5-1964 and  
22-5-1964.

Between the dates 20th May, and 22nd May, 1964, events moved in quick succession. The case of the Government servants with regard to the series of events which occurred from 20th to 22nd May, 1964, briefly stated, is as follows. On 20th May, 1964, Santa Singh (witness No. 35) and Amar Singh, two local Sikhs, filed an application under section 92 of the Code of Civil Procedure before the Deputy Commissioner, Sirmur, in his capacity as the Advocate-General, to grant permission for the institution of a civil suit for proper management of Gurdwara Paonta Sahib. The application for permission as well as the plaint of the suit under section 92 of the Code of Civil Procedure were drafted by Sri K. C. Pandit, Government Advocate, who had come from Simla to Nahan because at that time the District Judge of Mahasu and Sirmur was holding his circuit court at Nahan. Affidavits of Santa Singh and Amar Singh, which were to be filed along with the application for permission, were sworn by the two applicants in the presence of Sri Kashmir Singh, Revenue Assistant. Thereafter the application for permission was moved before the Deputy Commissioner in his capacity as Advocate-General and granted the same day. The Deputy Commissioner also verbally directed that a copy of the order permitting the institution of the suit under section 92 of the Code of Civil Procedure be given to the applicants and his order was complied with the same day. After having obtained the permission of the Deputy Commissioner in his capacity as the Advocate-General the applicants filed at Nahan on that very day a suit under section 92 of the Code of Civil Procedure in the court of the District Judge, Mahasu and Sirmur. An application was also moved for the appointment of a Receiver and for police help. On the following day, i.e., on 21st May, 1964, the District Judge, Mahasu and Sirmur, admitted the plaint and also granted the application for the appointment of Receiver and the delivery of possession to him through police help. The same afternoon an official letter (copy Ex. A-81) was sent by the District Judge to the Deputy Commissioner, Sirmur, at Nahan, conveying to him the information that a suit under section 92 of the Code of Civil Procedure had been filed and the application for police help had been granted. On 22nd May, 1964, at about 9-30 a.m. a warrant of possession (copy Ex. A-22) signed by the District Judge was sent to the Senior Sub-Judge for compliance. The Senior Sub-Judge endorsed the same to Mansa Ram, Civil Nazir, for immediate compliance, and Mansa Ram contacted the Revenue Assistant, Sri Kashmir Singh, before 10 a.m. and enquired from him as to when he would like to proceed to Paonta to take delivery of possession as the Receiver of the properties of the Gurdwara at Paonta Sahib. Sri Kashmir Singh told the Civil Nazir that he was prepared to proceed to Paonta that very day. Sri Kashmir Singh went immediately to the Deputy Commissioner, Sri K. R. Chandel, (witness No. 47) and informed him about the orders received from the District Judge. Sri K. R. Chandel

had already planned a tour to Chandni, but on hearing the news he preferred to accompany the Revenue Assistant to Paonta to personally supervise the law and order situation there. He also directed Sri N. K. Singhal, the Superintendent of Police, Sirmur, to make necessary police arrangements. The Superintendent of Police despatched extra police force from Nahan and himself proceeded to Paonta to see that nothing untoward happened.

There are consistent statements made by Sri K. R. Chandel, Sri N. K. Singhal, Sri Kashmir Singh and Sri Mansa Ram, Civil Nazir, to prove the facts mentioned in the preceding paragraph.

The contention of the learned counsel for the S.G.P.C. (both Sant Fateh Singh Group and Master Tara Singh Group) is that it must be the District Magistrate who directed Santa Singh and Amar Singh to file a suit under section 92 of the Code of Civil Procedure and that every thing was done in such a great hurry as to lead to the inevitable conclusion that there must have been a conspiracy between the Government servants to dispossess the Nihangs on 22nd May, 1964. It was contended that the action of the authorities right from the 20th May, 1964, to 22nd May, 1964, was *mala fide* and the result of a deep-laid conspiracy. It was also asserted that various irregularities, and even illegalities, were committed at each stage of the proceeding.

Was every-  
thing done  
the result of  
a deep-rooted  
conspiracy?

It is, therefore, necessary to consider in detail the incidents leading to the collection of police force outside Gurdwara Paonta Sahib on 22nd May, 1964.

There appears to be no force in the suggestion made by learned counsel for the S.G.P.C. that Santa Singh and Amar Singh were mere puppets in the hands of Sri K. R. Chandel, Deputy Commissioner, Sirmur and must have filed the suit under section 92 of the Code of Civil Procedure under directions from him. Learned counsel relied upon the following facts and circumstances in order to substantiate their argument on this point:—

- (1) Both Santa Singh (witness No. 35) and Amar Singh appeared to be "men of straw" and could not be expected to initiate such proceedings at their own instance and at their cost.
- (2) They did not engage any local lawyer at Nahan. The Government counsel who had come from Simla because the District Judge happened to be at Nahan was engaged for that purpose.
- (3) No proper enquiry was made by the Deputy Commissioner exercising his powers as the Advocate-General before granting the application for permission to file a suit under section 92 of the Code of Civil Procedure.
- (4) A copy of the order of the Deputy Commissioner was given to the applicants without any formal application for copy.
- (5) The suit was filed in the court of the District Judge the same day.
- (6) The Revenue Assistant gave his consent for being appointed as the Receiver.

- (7) Police help was made available to the Civil Nazir without proper scrutiny.
- (8) The order of the District Judge was executed the same day it was received.

Out of the two plaintiffs of the suit under section 92 of the Code of Civil Procedure one, namely, Santa Singh (witness No. 35) has been examined. It is clear from his statement that he is a resident of village Santokhpur, within police station and tahsil Paonta district Sirmur, and is a frequent visitor to Gurdwara Paonta Sahib. He has got 20 bighas *kham* of land and earns Rs. 2000/- per annum from that land. Amar Singh is a resident of village Barhal, which is at a distance of six or seven miles from village Santokhpur, where Santa Singh lives. Santa Singh happened to be present at Paonta on the date a marpit had taken place inside the Gurdwara precincts soon after the arrival of the Nihangs. His impression was that the Nihangs were not managing the Gurdwara properly. Santa Singh was dissatisfied with the management of the Nihangs because they did not treat the members of the public well. He was also dissatisfied with the management of Mahant because the latter had not been submitting the accounts of the income of the Gurdwara. Both Amar Singh and Santa Singh, therefore, decided to take some legal action in order to set the affairs of the Gurdwara in order. They went to the members of the Bar at Nahan, but no one was able to give them proper advice. They, however, referred him to the Government counsel who had come from Simla to attend the circuit court of the District Judge. The Government counsel (Sri K. C. Pandit) enquired from them the facts of the case and by 10 a.m. the next morning drafted all the necessary applications and the plaint. According to Santa Singh, the two plaintiffs had come to Nahan on 19th May, 1964, and were able to file the suit on 20th May, 1964. They paid Rs. 100/- as fees to their counsel. The amount was also to include the sum to be spent on court-fee. Santa Singh stated that each plaintiff had contributed Rs. 50/- towards that amount.

During the course of his cross-examination the witness was asked whether the Deputy Commissioner had directed him to institute the suit, and he replied in the negative. It was also suggested to the witness that Mahant Gurdial Singh had provided him with necessary funds for instituting the suit and the witness negatived that suggestion also.

It has been strenuously contended that Santa Singh and Amar Singh should not be considered to be in any way interested in the affairs of the Gurdwara and could not have undertaken to bear the heavy expenses of the litigation in a suit under section 92 of the Code of Civil Procedure. The following circumstances are relied upon in support of the contention that the suit under section 92 of the Code of Civil Procedure was not a *bona fide* one:

- (1) Neither Santa Singh nor Amar Singh accompanied the Civil Nazir to Paonta at the time of the execution of the warrant on 22nd May, 1964.
- (2) During the course of his cross-examination Santa Singh could not say anything about what must have happened in the court of the District Judge on 21st May,

1964. The witness stated that his counsel did not inform him that a Receiver had been appointed or his application for police help had been granted.

In my opinion there is no force in this argument. Santa Singh and Amar Singh were local Sikhs and frequent visitors to Gurdwara Paonta Sahib. They were, therefore, interested in the proper management of the affairs of the Gurdwara Paonta Sahib. They could certainly go to the civil court for proper redress in case they thought that the management of the Gurdwara at Paonta Sahib was not in proper hands.

Santa Singh stated during the course of his cross-examination that he was not present in the court on the date the Receiver was appointed. It is, therefore, not at all surprising that he could not tell the cross-examiner what had happened in the court of the District Judge on 21st May, 1964, when the Receiver was appointed. It is to be remembered that according to the statement of Santa Singh both he and Amar Singh had come from their villages to Nahan on 19th May, 1964, and, after having obtained the permission of the Deputy Commissioner, had filed a suit under section 92 of the Code of Civil Procedure in the Court of the District Judge at Nahan on 20th May, 1964. No order was passed by the District Judge on that day. The plaint along with the application for appointment of Receiver and the grant of police help were put up before the District Judge in the normal course on 21st May, 1964, and it was on that date that the necessary orders were passed. Since the statement of the witness is that he was not present in the court of the District Judge on 21st May, 1964, i.e., on the date the Receiver was appointed, his absence of knowledge about what happened in that court on 21st May, 1964, is not at all material.

The Deputy Commissioner could not be interested in getting a suit under section 92 of the Code of Civil Procedure filed. His conduct right from the time of the arrival of the Nihangs at Paonta till the date of the institution of the suit did not reveal that he was trying to favour any particular party, that is to say, the Mahant. He had only been insisting on an amicable settlement between Mahant Gurdial Singh and the Nihangs and had quietly allowed more than a month and a half to pass. It was, therefore, none of his business to get a suit under section 92 of the Code of Civil Procedure filed by the two residents of the locality. However, after the suit had been instituted and an order of the court appointing a Receiver and granting the application for police help had been passed he could have, in the circumstances of the case, considered it more expedient to see that the order of the court was executed as early as possible. More batches of Nihangs were expected to arrive and it would have become more difficult to provide the necessary police help after more Nihangs had arrived inside Gurdwara Paonta Sahib. However, from that act of executive expediency it cannot be inferred that the suit under section 92 of the Code of Civil Procedure must have been instituted at his instance.

Suit under S. 92 not at D.M's Instance.

The fact that the suit under section 92 of the Code of Civil Procedure was filed by the Government Advocate, who had come

from Simla, does not, in any way, advance the case of the S.G.P.C. It has been conceded before me that the Government Advocate was there because the District Judge happened to be at Nahan. The Government Advocate had to come to Nahan again on the occasion of the visits of the District Judge to that place in connection with his official work. In the circumstances the Government Advocate could have no hesitation in accepting the case under section 92 of the Code of Civil Procedure which had to be instituted and heard at Nahan. He was not to incur any extra-expenditure for coming to Nahan during the official tour of the District Judge because he was bound to be there at that time. In the circumstances there is nothing strange in the appointment of the Government Advocate as the counsel to institute the suit under section 92 of the Code of Civil Procedure. It is not at all strange that the Government Advocate accepted that brief.

Proper enquiry made by the D.C. before permission granted.

The contention that the Deputy Commissioner did not make any proper enquiry before granting the application to institute the suit under section 92 of the Code of Civil Procedure is not at all based on correct facts. The papers connected with that enquiry were summoned, and perused by me. The Deputy Commissioner had not contented himself with the affidavits filed along with the application, but had also recorded the statements of the applicants. The examination on oath of the applicants is quite in detail, and after its perusal it cannot be said that the Deputy Commissioner had not made proper enquiry before giving permission to institute the suit.

The suggestion made by the learned counsel for the S.G.P.C. that the statements of the witnesses had not been recorded on that day but on some subsequent date is without any proper basis. This argument was advanced because in the order passed by the Deputy Commissioner there is a special reference to the affidavits filed along with the application but no specific reference to the statements, made on oath, recorded by him. The order passed by the Deputy Commissioner reads as follows:—

“The application of Sarvashri Amar Singh and Santa Singh, seeking consent to institute a suit under section 92 C.P.C. against Jathedar Harbhajan Singh and others has been examined. The enquiries made by me reveal that it is necessary to institute the suit. The allegations contained in the plaint are of a very serious nature. The affidavit of the petitioners is in support of the application.

Having satisfied myself about the desirability of filing the suit, which appears to be bona fide and is in the public interest, I allow consent to file the suit by the applicants, Sarvashri Amar Singh and Santa Singh as required under section 92 C.P.C.”

There is no force in this contention because the words “The enquiries made by me” can very well refer to the statements on oath of witnesses recorded in his presence.

The proceedings before the Advocate-General at the time of the grant of the permission to institute a suit under section 92 of the Code of Civil Procedure are of an administrative nature. The proceedings before him are not of a judicial or of quasi-judicial



nature: vide *Swami Shanta Nand Saraswati v. Advocate-General, U.P., Allahabad*, reported in A.I.R. 1955 All. 372. It was not at all necessary for the Advocate-General (in this case the Deputy Commissioner) to issue notices to the opposite party before granting such permission. Usually such permissions are granted on the basis of the reports received from executive authorities. Sri K. R. Chandel, Deputy Commissioner, was cross-examined at great length on this point, and he stated that he had remained posted at Nahan for quite a long time and had personal knowledge about Gurdwara Paonta Sahib and about its being in the nature of a constructive Trust. The Deputy Commissioner could not, therefore, have any difficulty in granting the permission asked for after he had examined the applicants on oath. In my opinion no illegality was committed by the Deputy Commissioner acting as the Advocate-General in granting the permission to institute a suit under section 92 of the Code of Civil Procedure.

A copy of the order of the Deputy Commissioner granting permission to file a suit under section 92 of the Code of Civil Procedure was issued the same day by the office Superintendent after attesting that it was a true copy of the order. No application was made to the Copying Department for the issue of any copy. Sri K. R. Chandel in his cross-examination frankly admitted that the copy must have been issued under his verbal directions. In view of the fact that it was only a copy of an administrative order it could be that the Government Advocate made a verbal request for the issue of a copy and the Deputy Commissioner directed that a copy be issued immediately.

The verbal direction given by the Deputy Commissioner, Sri K. R. Chandel, for the issue of an attested copy of his order can hardly be regarded to be a suspicious circumstance. After all it is to be remembered that an urgent copy of the order of the Deputy Commissioner could have been obtained the same day without any difficulty. No case of conspiracy can be made out on the basis of this unimportant circumstance.

After the permission of the Deputy Commissioner (acting as Advocate-General) had been obtained on 20th May, 1964, before lunch time, there could be no difficulty in instituting the suit under section 92 of the Code of Civil Procedure the same day. It has come in evidence that the papers were ready with the counsel for Santa Singh and Amar Singh. The suit could, therefore, be instituted quite easily the same day after a copy of the order passed by the Deputy Commissioner in his capacity as the Advocate-General had been received.

The orders for the appointment of a Receiver were passed by the District Judge on 21st May, 1964. A suggestion had been made in the application presented on behalf of Santa Singh and Amar Singh that the Revenue Assistant be appointed as the Receiver. The District Judge called the Revenue Assistant (Sri Kashmir Singh) and after he had stated in court that he had no objection to the proposal he was appointed the Receiver. An order for police help was passed because an affidavit had been filed before the District Judge that the Nihangs were likely to obstruct the delivery of possession to the Receiver.

Receiver appointed Police help allowed.

It has been contended by the learned counsel for the S.G.P.C. that Sri Kashmir Singh being a Government servant could not have accepted this appointment without the permission of the Government. Sri Kashmir Singh was cross-examined on this point, and he stated that he did not consider it necessary to take the permission of the Government before accepting that assignment. He also stated during the course of his cross-examination that he had been appointed as Receiver by a court on another occasion also only a few years ago, and at that time also he had not taken the permission of the Government before accepting the assignment.

It is clear from the cross-examination of Sri K. R. Chandel (witness No. 47) that before accepting this assignment Sri Kashmir Singh should have obtained the permission of the Government to accept the assignment. The statement of Sri Kashmir Singh would, however, reveal that no such application was made by him because he remained under the impression that it was not necessary for him to obtain the permission of the Government before accepting the assignment. Sri K. R. Chandel stated in his cross-examination that he too was under the impression that such appointments by courts were in the normal course and there was absolutely no harm in the assignment having been accepted by Sri Kashmir Singh without prior approval of State Government.

It is clear from the evidence on the record that Sri Kashmir Singh was on 22nd May, 1964, under the impression that there was no harm in his accepting the appointment as a Receiver appointed by a court and had, therefore, given his consent. No *mala fides* can be inferred from that act of Sri Kashmir Singh.

No illegality or irregularity committed by D. C. in accepting Court's direction for Police help.

It was contended that the Deputy Commissioner should not have directed that police help should be given to the Civil Nazir under the orders of the District Judge because it was clear from the order of the District Judge that he was to give police help in accordance with Paras 1 to 3 of Chapter 7-J, Vol. IV of the Rules and Orders of the Punjab High Court. The Punjab High Court Rules have been adapted for Himachal Pradesh also and are in the same terms. The relevant provision reads as follows:—

“2. A Subordinate Judge may move the District Judge, or in his absence from the district, the Senior Subordinate Judge to ask the District Magistrate for Police assistance. The request must be accompanied by evidence of the circumstances sufficient to satisfy the District Magistrate that there is a design to commit a cognizable offence or that there is a likelihood of the commission of a cognizable offence by the person or persons on whom a warrant of arrest or distress or for the possession of immovable property is to be served”.

It is contended that inasmuch as the District Judge did not forward to the District Magistrate the necessary material from which the latter could infer that police help was necessary the District Magistrate should not have agreed to give police help at the time of the execution of a civil court warrant. The argument was that the disregard of the rules shown by the Deputy Commissioner in this respect clearly revealed that he had at that time

no regard for proper procedure but was bent upon driving away the Nihangs from the Gurdwara at Paonta Sahib on that very day whether by fair means or foul. In my opinion there is no proper basis for this argument. The District Judge had already informed the Deputy Commissioner that he had ordered that police help be given at the time possession was to be delivered to the Receiver because he apprehended obstruction from the side of the Nihangs. Keeping in view the situation at Paonta the Deputy Commissioner could very well envisage that the delivery of possession to the Receiver through the Civil Nazir could not be effected without police help. He need not, therefore, have asked for further details from the District Judge. I do not think any irregularity or illegality was committed in that connection.

I might mention at this stage that it was argued by Sri B. S. Chawla, learned counsel for S.G.P.C. (Sant Fateh Singh Group) that in all probability the District Judge had obliged the Deputy Commissioner by passing an interim order in the suit under section 92 of the Code of Civil Procedure. He based his argument on the following two circumstances:—

- (a) The warrant for delivery of possession was signed by the District Judge before court hours.
- (b) The corrections made by the District Judge in the letter Ex. A-81 tallied with the corrections made by the District Magistrate in the endorsement made by him on the back of that letter.

Sri Chawla's contention is that both these corrections must have been made sometime after 22nd May, 1964.

There is no force in any of these contentions. The order for appointment of Receiver and delivery of possession with police help had already been passed by the District Judge on 21st May, 1964. It appears that the Camp Office was not able to obtain the signatures of the District Judge on the warrant of possession that very evening, and, therefore, it obtained his signatures next morning before court hours. There is nothing strange in that, because the District Judge had come to Nahan on tour and his Camp Office must have been located quite close to the place where the District Judge was staying.

It was mentioned in that letter that the management of the affairs of the Gurdwara had vested in the Receiver appointed by the court, that the defendants in the suit were likely to resist and avoid delivery of possession to the Receiver and, therefore, the court had directed that necessary police assistance may be provided to the Nazir to enable him to deliver possession of the properties. It had been typed out in the letter that the police assistance was to be provided to the Receiver. The word "Receiver" was struck out and the word "Nazir" was substituted in its place. Another consequential amendment made was that the word "take" was substituted by the word "deliver".

The Deputy Commissioner forwarded the letter in original to the Superintendent of Police with the request that necessary assistance may be provided to the Nazir. At first he had written that the necessary assistance may be provided to the Revenue

Assistant, but he scored out the word "Revenue Assistant" and substituted in its place the word "Nazir".

Had the correction been made by the District Judge only no argument could possibly be raised by Sri Chawla. However, since a similar correction had been made by the Deputy Commissioner also, the contention that both these corrections were made much after 22nd May, 1964, is being made.

Sri K. R. Chandel, the then Deputy Commissioner, was questioned during the course of his cross-examination about the corrections made by him and he stated as follows:—

"It is wrong to suggest that I had changed my endorsement after the order of the District Judge had been corrected. The fact is that this order of the District Judge was received by me in this very form bearing corrections at two places when I first received it on 21st May, 1964. The corrections made by me in my endorsement became necessary because after having read the order of the District Judge and the mention of the word 'Revenue Assistant' at several places, I remained under the impression that police assistance was to be provided to the Revenue Assistant. However, after having written all the six or seven lines of my endorsement and at the time when I revised the same and after having read the order of the District Judge over once again I realised that the order of the District Judge was that police assistance should be provided to the Nazir and not to the Revenue Assistant and that is why I made corrections at two places in my endorsement, and the words 'Revenue Assistant' were replaced by the word 'Nazir'."

The explanation given by Sri K. R. Chandel is quite satisfactory and, in my opinion, it is not possible to infer from these corrections made both in the letter of the District Judge and in the endorsement made by the Deputy Commissioner that the same must have been made after 22nd May, 1964.

The last circumstance relied upon by the learned counsel for the S.G.P.C. is that the facts and circumstances of the case are such that they clearly reveal that the district authorities were very eager to see that the order of the District Judge was executed and possession delivered to the Receiver the same day.

It has come in evidence, and is not disputed, that on 21st May, 1964, after the District Judge had passed the order appointing the Receiver and for providing police help at the time of the delivery of possession by the Civil Nazir to the Receiver he had sent a letter (Ex. A-81) to the Deputy Commissioner, Sirmur, informing him that police help had been sanctioned by him. On the receipt of that information Sri K. R. Chandel, (witness No. 47) immediately informed Sri N. K. Singhal (witness No. 42), Superintendent of Police, Sirmur. Sri K. R. Chandel rang up the Tehsildar at Paonta and asked him to send the Jathedar to Nahan. The Deputy Commissioner wanted to call him to Nahan to explain the order of the court to him and to see that nothing untoward happened at the time of the execution of the order. The Jathedar, however, expressed his unwillingness to proceed to Nahan. The Superintendent of Police (witness No. 42) after receipt of the information from the Deputy Commissioner rang

up the police station Paonta. The S.H.O. Sri Kapur Chand (witness No. 11) and the District Inspector Sri Daulat Ram (witness No. 12) were not there but a constable conveyed the telephonic message to them at a distance of about seven or eight miles from Paonta. Both of them immediately went to Nahan and received the necessary instructions from the Superintendent of Police the same evening. While they were there a reserve force from Mahasu arrived at Nahan. Eighteen or twenty constables were despatched to Paonta the same night in the company of the S.H.O. Paonta and the District Inspector. They did not carry any firearms with them. At that time the Superintendent of Police, Sirmur, could not be sure that the delivery of possession would take place the very next day. However, he had to take the necessary precaution because once the orders of the court had been passed the delivery of possession to the Receiver could be required to be made at any time thereafter.

It has come in evidence, and is not disputed, that on 22nd May, 1964, as soon as the warrant of possession had been received the Civil Nazir, Sri Mansa Ram (witness No. 10) went to Sri Kashmir Singh (witness No. 7), Revenue Assistant, to enquire from him as to when he would proceed to Paonta to take delivery of possession. Sri Kashmir Singh informed him that he would proceed to Paonta the same day. Thereafter the Revenue Assistant went to see the District Magistrate and told him that he was going to Paonta to take possession of the Gurdwara properties as Receiver. The District Magistrate gave necessary directions to Sri Singhal, Superintendent of Police, Sirmur, and himself proceeded to Paonta taking Sri Kashmir Singh with him. The Superintendent of Police directed about 50 constables to be despatched to Paonta under the command of Sri Bhagat, Assistant Superintendent of Police, in two trucks and one publicity van and himself left for Paonta, reaching there at about 11-15 a.m. All the three police vehicles were left at Bata Bridge, at a distance of three miles from Paonta, because it was not considered necessary to take them upto Paonta unless it was known for certain that they might be needed there.

The Civil Nazir, Sri Mansa Ram (witness No. 10) reached Paonta at about 11 a.m. The order of the court was first served by him on Mahant Gurdial Singh, who gave it in writing that no property of the Gurdwara was in his possession. The Civil Nazir thereafter proceeded towards the Gurdwara to serve the order of the court on Jathedar Harbhajan Singh, but on learning that by that time Jathedar Harbhajan Singh had already been called by the Deputy Commissioner to the Rest House, he, in the company of witnesses, Sri Siri Ram Zakhmi and Ishwar Chand Goel, proceeded towards the Rest House. The Civil Nazir, accompanied by the two witnesses, was allowed to go inside the room of the Rest House where the Deputy Commissioner and the Jathedar were present. He informed the Jathedar about the order of the court. The same was interpreted to the Jathedar by Sri Ishwar Chand Goel in his own language. The Jathedar, however, refused to comply with the order of the court and stated that the Nihangs would either kill people or be killed themselves before allowing the Gurdwara to pass into the possession of any



other person. Both the Jathedar and his companion became aggressive, and the Deputy Commissioner ordered that they should be put under arrest. The Civil Nazir thereafter wrote out an application for police help and handed it over to the Deputy Commissioner, who endorsed it to the Superintendent of Police and the latter to the S.H.O. In this manner police help arrived from police station Paonta and the police constables assembled in front of the Gurdwara. In the meantime the police constables, who had come in three motor vehicles from Nahan and had been stopped at the Bata Bridge under the directions of the Superintendent of Police at a distance of about three miles from Paonta, were also summoned from there. The motor vehicles carrying the police personnel also arrived in front of the Gurdwara at about 12-30 p.m.

What has been stated in the preceding paragraph is the official version and is fully established from the statements made by Sri K. R. Chandel, Deputy Commissioner, Sri N. K. Singhal, Superintendent of Police, Sirmur, Sri Kashmir Singh, Revenue Assistant, Sri Kapur Chand, S.H.O., Sri Daulat Ram, District Inspector, and two witnesses of the public, namely, Sri Ishwar Chand Goel and Sri Siri Ram Zakhmi.

Jathedar Harbhajan Singh (witness No. 2) and Mohinder Singh (witness No. 3), who were arrested inside the Rest House, did not admit that the order of the civil court had been read out to them either by the Civil Nazir or by Sri Ishwar Chand Goel. They also did not admit that the Deputy Commissioner had told them anything about the orders of the civil court. They further stated that they did not threaten anybody at the time of the arrest and that they had been put under arrest without any just cause. No reliance whatsoever can be placed on their statements. The version given by the Government servants and two witnesses of the public that the Jathedar and his companion had refused to obey the orders of the court and defiantly stated that the Nihangs would kill or be killed before possession of the Gurdwara could be delivered to the Receiver appears to be more reliable and has to be accepted.

District  
authorities  
decided to  
give Police  
help on 22-  
5-1964.

However, from the course of events as occurred between 9.45 a.m., after the order signed by the District Judge had been received by the Revenue Assistant, and 11.30 a.m., when the District Magistrate, the Superintendent of Police, Sirmur, accompanied by additional police force transported in three motor vehicles had reached Paonta or its vicinity it is abundantly clear that the district authorities considered it expedient to see that the order of the court was executed on that very day, i.e., on 22nd May, 1964. The fear that more Jathas of Nihangs might arrive at Paonta in a day or two and make the task of delivery of possession to the Receiver in compliance with the order of the court extremely difficult must have been at the back of the minds of the Deputy Commissioner and the Superintendent of Police when they decided to provide police help to the Civil Nazir on that very day, i.e., on 22.5.1964.

The order of the District Judge had to be executed some day, and there could be nothing wrong in the action of the district



authorities, that is to say, the Deputy Commissioner and the Superintendent of Police, when they decided to give police help, to execute the order of the District Judge on that very day, i.e., on 22nd May, 1964, before there was any chance of fresh Jathas of Nihangs arriving at Paonta.

It was strenuously contended by Sri B. S. Chawla, learned counsel for the S.G.P.C. (Sant Fateh Singh Group) that the arrangements made by the Deputy Commissioner and the Superintendent of Police on 21st and 22nd May, 1964, show that there was a conspiracy between them and other Government officers to throw out the Nihangs and to exterminate them, if necessary. In my opinion no such inference is possible. All that can be inferred from the happenings of 21st and 22nd May, 1964, is that an executive decision was taken by the Deputy Commissioner with the concurrence of the Superintendent of Police, Sirmur, that police help be given to execute the order of the court of the District Judge on that very day, i.e., on 22nd May, 1964.

No adverse inference can be drawn from the circumstance that on 22nd May, 1964, both the Deputy Commissioner and the Superintendent of Police decided to be present at Paonta at the time the order of the court of the District Judge was executed by the Civil Nazir. The law and order situation at Paonta was very delicate. Obstruction was feared from the side of the Nihangs. Had the Deputy Commissioner and the Superintendent of Police not gone to Paonta on that day the omission on their part to do so was bound to be severely criticised.

There is nothing on the record to show that either the Deputy Commissioner or the Superintendent of Police ever desired to exterminate the Nihangs or what they did on 22nd May, 1964 was the result of any conspiracy, much less any deep rooted conspiracy.

No conspiracy of any kind.

Both Jathedar Harbhajan Singh and Sardar Mohinder Singh Nihang (witness No. 3) were armed with dangerous weapons at the time the order of the District Judge was explained to them. Jathedar Harbhajan Singh, during the course of his cross examination, admitted that at the time he was arrested he had with him two *kripans*, one big and one small, one knife, one *chakkar* and one *safajang* (axe), while Mohinder Singh (witness No. 3) was armed with one sword, one shield, one *chakkar*, and one *Kotla Kamund*. *Kotla Kamund* is a weapon in which two iron chains are fastened to a stick and at the end of each chain there is an iron ball. Mohinder Singh (witness No. 3) also admitted the recovery of the above mentioned weapons from his possession.

There can be no doubt that Jathedar Harbhajan Singh had clearly understood what the order of the District Judge was. It was after hearing the order of the District Judge, as explained to him by Ishwar Chand Goel and the Deputy Commissioner himself, that he had said that the Nihangs would either kill or be killed but would not deliver possession of the Gurdwara to anyone. The Deputy Commissioner already knew about the order passed by the District Judge. Even before the arrival of the Civil Nazir he had, therefore, explained to Jathedar Harbhajan Singh what the order of the court was. He tried to impress upon him that it was proper to comply with the orders of the court. After the

Court's order had been explained to Jathedar Harbhajan Singh.

arrival of the Civil Nazir, the order of the court was, according to Sri K. R. Chandel, Deputy Commissioner, "translated to Jathedar Harbhajan Singh by Sri Ishwar Chand Goel in a language which I think the Jathedar could understand".

Both Jathedar Harbhajan Singh and Mohinder Singh had adopted a threatening attitude and were, therefore, placed under arrest under the orders of the Deputy Commissioner. The Civil Nazir thereafter wrote out an application (Ex. A-20) for police assistance and presented it to the Deputy Commissioner, the seniormost officer present in the Rest House, for necessary orders. The Deputy Commissioner endorsed that application to the Superintendent of Police for necessary action. The Superintendent of Police in his turn sent that application to the District Inspector by name "to make necessary arrangements immediately as per instructions given already". The Superintendent of Police, Sri N. K. Singhal, also sent someone on a jeep to Bata Bridge to call the police force from there.

Police Constables collected before the Gurdwara.

Sri Daulat Ram, District Inspector, Sri Kapur Cland, S.H.O. Paonta, accompanied by police constables and head constables, 24-25 in number, arrived in front of Gurdwara Paonta Sahib at about 12.30 p.m. Two head constables and two constables were armed with muskets. Each of them had been given 20 rounds of ammunition. The remaining constables were armed with lathis.

The two police trucks and one publicity van carrying about 40 to 50 constables also arrived in front of the main gate of Gurdwara Paonta Sahib at about the same time, i.e., at about 12.30 p.m. Four constables, who had come from Nahan on those vehicles, were armed with muskets, while some of the remaining constables were armed with lathis. None of them had any other arms with him.

Just before the arrival of the three police vehicles, Sri K. R. Chandel, accompanied by Sri N. K. Singhal, Superintendent of Police, Sri Kashmir Singh, Revenue Assistant, Sri Mansa Ram, Civil Nazir, went towards the Deorhi Gate of the Gurdwara and stood beneath a *sheesham* tree, which was at a distance of about 40 paces and towards the north of the Deorhi Gate. Ishwar Chand Goel and Siri Ram Zakhmi, who had left the Rest House a few minutes earlier and were going towards the market of Paonta, became curious on the arrival of the police force and went and stood beneath the *sheesham* tree where the officers were standing.

Announcement over loud speaker made by D.C. explaining Court's orders to Nihangs.

A loudspeaker was fitted to the publicity van—one of the vehicles on which the police constables had arrived. Sri K. R. Chandel, the Deputy Commissioner, stated that immediately on his arrival in front of the Deorhi Gate of the Gurdwara he made an announcement over the loudspeaker telling the Nihangs what the orders of the District Judge, Sirmur, were and also making a request to them to leave the possession of the Gurdwara for delivery to the Receiver. According to the statements made by Sri K. R. Chandel, Deputy Commissioner, as soon as the announcement had been made the Nihangs, who were on the

roof of the Gurdwara, started pelting brick-bats on the policemen with the result that a few of the policemen were injured. Thereafter some of the policemen, in order to stop the Nihangs from pelting brick-bats, from the roof, climbed up the roof and the others entered the Gurdwara premises through the Deorhi Gate.

Brick-batt-  
ing by the  
Nihangs  
on roof.

There is some discrepancy about the manner in which some of the policemen had reached the roof of the Gurdwara before tackling the Nihangs who had entered the *chobara* and closed its doors from inside. Some four or five police constables undisputedly reached the roof with the help of the ladders from the side of the Tahsil and the police station, i.e., from the western side. That is clear from the statement of Abdul Majid (witness No. 19). But there is some discrepancy as to how the other set of four or five police constables reached the roof. According to Sri Kashmir Singh, some of them reached the roof from the staircase existing by the side of the Deorhi Gate. However, the statement of Samudha Ram constable (witness No. 20) is that there was already a ladder resting against the western boundary wall of the Gurdwara inside Gurdwara premises and the constable Samudha Ram accompanied by two or three other constables and the head constable in charge reached the roof using that ladder. The discrepancy is, however, immaterial for the purposes of the present enquiry.

Chobara  
Incident.

After about 8 or 10 constables had reached the roof of the Gurdwara they were attacked by 6 Nihangs, who happened to be there, with arrows discharged from a bow and with *chakkars* (iron discs) thrown by the Nihangs. Abdul Majid claims to have received three injuries with *chakkars*, while Samudha Ram has stated that he had been injured with an arrow discharged by the Nihangs from a distance of about 20 feet.

The injury sustained by Samudha Ram constable was one stab wound,  $\frac{1}{2}'' \times \frac{1}{8}'' \times \frac{1}{4}''$  on the back of the foot slightly behind the web between great toe and second toe of right foot freshly bleeding (vide Ex. A-87).

Abdul Majid constable received the following three injuries (vide injury report Ex. A-70):

- (1) Incised wound  $\frac{3}{4}'' \times \frac{1}{8}''$  skin deep on left wrist oblique upwards and medialwards;
- (2) Incised wound  $\frac{1}{2}'' \times \frac{1}{2}''$  skin deep about 1" above No. 1, irregular; and
- (3) Incised wound  $3'' \times \frac{1}{8}'' \times \frac{1}{2}''$  skin deep on left shoulder transverse.

On seeing the policemen reaching the roof the Nihangs, who were standing near the *chobara* and were fully armed, rushed inside the *chobara* and closed its doors from inside. The policemen broke open the doors of the *chobara* and arrested from there the Nihangs named below:—

- (1) Dharam Singh
- (2) Hari Singh
- (3) Gurbachan Singh son of Dargah Singh

- (4) Rantor Singh
- (5) Daya Singh
- (6) Harnam Singh

The case of the Government servants is that during the scuffle preceding the arrest of the six Nihangs five of them, namely, Harnam Singh, Gurbachan Singh, Hari Singh, Daya Singh and Dharam Singh, received minor injuries which could either be caused with a blunt weapon, such as lathi, or by fall or due to both. Dharam Singh had received two injuries, Harnam Singh three, Gurbachan Singh four, Daya Singh six and Hari Singh eight injuries. Rantor Singh did not receive any injury.

The case of the Nihangs and the S.G.P.C., as will appear from the statements made by Dharam Singh (witness No. 24) and Rantor Singh (witness No. 30) is that there were only four persons, namely, Harnam Singh, Daya Singh, Rantor Singh and Dharam Singh inside the *chobara*, that at the time the policemen were seen coming towards it they closed the doors of the *chobara* from inside but the policemen broke open the doors, beat them and arrested them and that thereafter they were taken to the police station before the firing took place.

Samudha  
Ram and  
Abdul Ma-  
jid Cons-  
tables in-  
jured with  
Arrow and  
Chakkar  
on the Roof.

It was contended by Sri B. S. Chawla, learned counsel for the S.G.P.C. (Sant Fateh Singh Group) that the injury received by Samudha Ram could not have been caused with an arrow while the injuries received by Abdul Majid could not be from a *chakkars*. Dr. D. R. Sharma, (witness No. 40) who had examined the injuries of Samudha Ram and Abdul Majid constables, stated that the injury to Samudha Ram could be caused with an arrow while the injuries to Abdul Majid could be caused with *chakkars*. Dr. Santokh Singh Anand, Director, Institute of Post-Graduate Medical Education and Research, Chandigarh, (witness No. 41) was examined by the S.G.P.C. as an expert in support of the contention that the injuries received by Samudha Ram could not be from an arrow and the injuries received by Abdul Majid could not be with *chakkars*. Dr. Anand has given his reasons which must be scrutinised carefully.

So far as the injury of Samudha Ram is concerned, the statement of Dr. Anand was that it could be caused with an arrow if the arrow fell vertically down, but it could not be caused with an arrow if it was hit from any side. The statement of Samudha Ram was that the arrow had been discharged by a Nihang from a distance of about 20 feet, i.e., from one side.

Samudha Ram was advancing towards the Nihangs at the time he received that injury. His right foot could not, therefore, be stationary. Again, it is difficult to say how that particular part of the body must have reacted at the time it received the injury. In the circumstances, no definite conclusion could, in my opinion, be drawn from the location of the wound or the description of the injury and it could not be said with certainty that the arrow, which had struck Samudha Ram and had caused that injury, could not have been discharged from any side, but must have come from above.

Similarly, the opinion given regarding the injuries received by Abdul Majid that they could not be received from *chakkars* is also not very convincing. The only reason given by Dr. Anand is that *chakkar* is a heavy weapon and if any injury is caused with a *chakkar* it should be quite deep and not merely skin deep. In the first place, *chakkars* are of various sizes and of different weight and all of them cannot be described as heavy weapons. In the second place, the nature of an injury caused even with a heavy weapon will depend upon several factors, such as:

- (1) the force with which the weapon is struck,
- (2) the angle at which it strikes,
- (3) whether the victim was fixed or moving at the time the injury was caused, and
- (4) whether the injury was or was not expected.

During the course of his cross-examination the doctor had to admit that velocity or force with which a weapon is struck is more important than the weight of the weapon and that the other factors pointed out above will also be important in determining the nature of the injury caused from any particular weapon. In view of what the doctor had to admit in his cross-examination, it is difficult to say that the injuries received by Abdul Majid could not have been caused with *chakkars*.

Dr. Anand is a highly qualified and responsible witness and any statement made by him should be entitled to great weight. However, I regret that it has not been possible for me to rely on his opinion given during the course of his examination. His cross-examination revealed that while giving that opinion he did not take into consideration certain important factors, such as the force with which the weapon was used, whether the victim was fixed or moving at the time the injury was caused and whether or not the blow was expected. The doctor had to admit that all these factors are important. The doctor had also to admit that he had worked as an Assistant Surgeon only for about five years from the year 1935 to 1940 and that after the year 1940 the medico-legal examinations conducted by him were very few. During this period he seems to have forgotten even the fundamental proposition that in trying to determine the weapon with which an injury was caused the consideration of velocity or force with which the weapon is used is more important than the weight of the weapon. At first he was trying to maintain that both are equally important. He went to the length of stating that it was wrong to suggest that velocity or force is more important than the weight of the weapon. He had, however, to admit that Taylor is an authority on the subject and that Taylor must be right when he wrote that "velocity is *much more* important than the weight of the weapon used". The opinion evidence given by Dr. Anand at a time when he was labouring under such a misapprehension could hardly be of any great value. Besides, I find that the opinion was given mainly upon consideration of the weight of the weapon without taking into consideration other important factors such as whether the body was fixed or moving or whether the blow was expected, or in the case of *chakkars* the effective range of the weapon.

In my opinion the medical evidence in the case does not negative the case of the Government servants that both Samudha Ram and Abdul Majid had been injured in the manner stated by them after they had reached the roof of the Gurdwara and were at a small distance from the *chobara*.

It is clear from the statement of Dharam Singh (witness No. 24) that all the arrested persons were taken to the police station immediately after their arrest and had reached there before the firing had started. Madan Lal, head constable (witness No. 46) filed an entry (Ex. A-108) of the daily diary of 22-5-1964 which shows that all the six Nihangs, namely, Dharam Singh, Hari Singh son of Mehnga Singh, Gurbachan Singh son of Dargah Singh, Daya Singh, Harnam Singh and Rantor Singh had reached the police station at 1.20 p.m.

It is significant to note that Gurbachan Singh son of Dargah Singh and Harnam Singh son of Ishwar Singh who, according to the case of the Nihangs and the S.G.P.C., were not arrested from the roof near the *chobara* have not been examined. There is, therefore, no proper evidence in rebuttal and the testimony of Samudha Ram and Abdul Majid that all the six Nihangs were arrested from the roof near the *chobara* has to be accepted.

Nihangs in the Chobara; an unlawful Assembly.

The Nihangs, who were on the roof near the *chobara*, had constituted themselves into an unlawful assembly and according to the statements made by Sri K. R. Chandel (witness No. 47), Sri N. K. Singhal (witness No. 42), Sri Kashmir Singh (witness No. 7), Sri Siri Ram Zakhmi (witness No. 15) and Sri Ishwar Chand Goel (witness No. 16) they were responsible for having thrown brick-bats on the police personnel as a result of which according to the statements made by S.I. Sri Kapur Chand, S.H.O. (witness No. 11) three police constables, namely, Mata Ram, Rirku Ram and Kaku Ram, received injuries. The injury report (Ex. A-70) prepared by Dr. D. R. Sharma (witness No. 40) shows that all the three constables named above had received injuries which, in the opinion of the doctor, could be caused with brick-bats.

The recoveries made from the Nihangs after their arrest clearly revealed that they were heavily armed. Gurbachan Singh son of Dargah Singh was armed with a *kripan*, an axe and two knives. Harnam Singh was armed with a sword, a spear, a *kripan* and a shield. Hari Singh was armed with a *katar*, a knife and a *takwa*. Rantor Singh was armed with a spear, a sword and a *kripan*, and Daya Singh with a sword, a shield, a *kripan* and two *chakkars*, and Dharam Singh with a knife, a *katar*, a shield, a small spear and a *chakkar*. One bow and some arrows, two *chakkars*, one *gatka*, two *takwas* and other weapons were recovered from inside the *chobara*. Twenty two used arrows and 16 *chakkars* were found lying on the roof outside the *chobara*.

Nihangs inside Chobara arrested after brief scuffle.

In the circumstances I have no hesitation in accepting the version given by the Government servants about the throwing of brick-bats by certain Nihangs from the roof of the Gurdwara near the *chobara*, of their attack on the police personnel when 8 or 10 policemen went upto the roof to arrest them, of injuries received by Samudha Ram with an arrow and Abdul Majid with



*chakkars* and of the subsequent arrest of all the six Nihangs from inside the *chobara* after a brief scuffle.

The evidence of the Government servants is to the effect that as soon as the police entered Gurdwara precincts a few Nihangs entered the Darbar Hall in which some Nihangs were already there. They closed the doors and windows of Darbar Hall and started attacking the police personnel by throwing *chakkars* at them after slightly opening the doors and windows whenever convenient to them. The police constables, however, remained on the ground below the platform and only some of them received injuries. On seeing that the Deputy Commissioner announced over the loudspeaker that the assembly of the Nihangs inside Darbar Hall was unlawful and asked them to leave the Darbar Hall.

Other Nihangs entered Darbar Hall and closed doors and windows  
Official version

After about half an hour or so one Darshan Singh Nihang came out of a window which was in the eastern wall of Darbar Sahib and desired that he should be taken to Jathedar Harbhajan Singh to receive his orders whether or not the possession of the Gurdwara Sahib should be handed over to the Receiver. He was taken by the Superintendent of Police to the place where the Deputy Commissioner was standing and with his permission the Superintendent of Police took Darshan Singh to the Rest House where Jathedar Harbhajan Singh was. Darshan Singh had a talk with the Jathedar. The latter advised not to surrender possession of the Gurdwara but to kill or be killed in trying to retain possession over the Gurdwara. On his return from the Rest House, Darshan Singh told the Deputy Commissioner about the talk which he had with the Jathedar. The Deputy Commissioner again tried to impress upon him the futility of any such attempt. He was able to persuade Darshan Singh to agree to give up possession of the Gurdwara. Darshan Singh had first desired that one of the Nihangs should be left in the Gurdwara to perform the *sewa*. Subsequently he said that the number of Nihangs who should be left for that work should be two and not one. Both of his demands were conceded by the Deputy Commissioner in consultation with the Receiver, Sri Kashmir Singh. However, Darshan Singh on reaching near the eastern window of the Darbar Hall told the Nihangs, who had assembled inside the Darbar Hall what the message of the Jathedar was. On hearing the message of the Jathedar the Nihangs, who had kept quiet during the period Darshan Singh had remained out of the Darbar Hall and had gone to consult the Jathedar, again became aggressive. They started raising slogans and some of them started beating the drums. They also reopened their attack on the police personnel outside the Darbar Hall.

The Deputy Commissioner again made an announcement over the loud speaker declaring the assembly of the Nihangs inside the Darbar Hall to be unlawful. He advised them to leave the Darbar Hall. However, the advice of the Deputy Commissioner had no effect on the Nihangs. The Superintendent of Police also directed his constables to go near the doors and windows and to make the Nihangs hear what the orders of the Deputy Commissioner were. As soon as Baldeo Singh constable (witness No. 13)

went near the door on the Langar side to tell the Nihangs what the orders of the Deputy Commissioner were, the door was suddenly opened by the Nihangs and some of them, after coming out, caught hold of Baldeo Singh and started dragging him through that door inside the Darbar Hall. Constable Roshan Lal (witness No. 14), who happened to be at a small distance from Baldeo Singh constable, rushed to his rescue, but he was attacked by the Nihangs with lethal weapons such as swords and spears and had to fall back. The Nihangs succeeded in dragging Baldeo Singh inside Darbar Hall and closing the door from inside. They also began to attack Baldeo Singh with swords and spears as a result of which his turban was cut at one place and it fell down on the ground and he received several injuries on different parts of his body. He shouted out "*mar diya mar diya*" (I am being killed), and as soon as the information was conveyed to the Deputy Commissioner he ordered that the doors and windows of Darbar Sahib should be forced open to rescue the constable. Some iron pipes and *ballis* were lying outside the Darbar Sahib. The constables, with the help of those iron pipes and *ballis*, broke open the front door (*darshani darwaza*) of Darbar Sahib, two window—one on the eastern side and another on the western side—and also forced open one door on the western side of the Darbar Sahib. While the doors were being broken open the door towards Langar side, through which Baldeo Singh had been dragged inside, opened and Baldeo Singh came out through that door.

The version  
of the Ni-  
hangs.

On the other hand the statement made by the Nihang witnesses examined by the S.G.P.C. is that immediately after their arrival the policemen started breaking open the doors and windows of Darbar Sahib and as soon as they had succeeded in breaking open all the doors and windows with the help of iron pipes and *ballis* and with the help of butt-ends of their guns they started indiscriminate firing. According to the statements made by the Nihangs it was wrong to suggest that Darshan Singh had gone out of the Darbar Hall to seek instructions from the Jathedar or that the Nihangs had at any stage become violent. According to the Nihang witnesses the Nihangs and certain pilgrims were inside the Darbar Hall where they were busy in Akhand Path, prayers and similar other devotional acts when the doors and windows were broken open and indiscriminate firing was started.

Points of  
difference  
between the  
two versions.

There are four main points of difference between the versions given by the two parties. The first difference is about the time of occurrence. According to the Nihangs the firing took place between 12 noon and 1 p.m., while according to the statement made by the Government servants the firing had started at about 2.45 p.m. The second difference is regarding Darshan Singh and what he is alleged to have done. The third difference is about the attack by the Nihangs from inside the Darbar Hall while the Nihangs were there. According to the Nihang witnesses there was no such attack. The fourth difference is about the dragging in of Baldeo Singh and injuries caused to him inside Darbar Sahib. According to the Nihang witnesses Baldeo Singh had not been dragged inside Darbar Hall and no injury had been caused to him there.

The witnesses examined to prove the version of the Government servants are Sri N. K. Singhal (witness No. 42), S.I. Sri Kapur Chand, S.H.O. (witness No. 11), District Inspector Daulat Ram (witness No. 12), constable Baldeo Singh (witness No. 13), Constable Roshan Lal (witness No. 14) and Head Constables Shankar Lal and Raghubir Singh (witnesses Nos. 17 and 18). They were corroborated on material particulars by Sri K. R. Chandel, Deputy Commissioner (witness No. 47), Sri Kashmir Singh, Revenue Assistant (witness No. 7), Sri Mansa Ram, Civil Nazir (witness No. 10), Sri Hari Saran Dass (witness No. 39), Tahsildar Paonta, Sri Siri Ram Zakhmi (witness No. 15) and Sri Ishwar Chand Goel (witness No. 16). The last named set of witnesses remained standing beneath a *sheesham* tree outside the Gurdwara at a distance of 40 paces from the Deorhi Gate and from that place could not see much. After Baldeo Singh had been dragged inside Darbar Sahib the Deputy Commissioner and other witnesses who were standing near him, had moved into the Deorhi Gate and stood beneath its porch at a place from where the entire front portion of the Darbar Hall and also the northern portion of the Langar side (west) and the school side (east) were visible. The statement made by all these witnesses is consistent and fully supports the official version of the case.

On the other hand, the witnesses examined by the S.G.P.C. are Nihal Singh Granthi (witness No. 1), Gurbachan Singh son of Ram Krishan (witness No. 4), Ajit Singh (witness No. 8), Karaka Singh (witness No. 29), Srimati Niranjana Kaur (witness No. 34) and Sunder Singh (witness No. 38). The first four witnesses (witnesses Nos. 1, 4, 8 and 29) claimed to be inside Darbar Sahib at the time of the occurrence, while Niranjana Kaur (witness No. 34) stated that she was near the Nishan Sahib, and Sunder Singh (witness No. 38) deposed that he was near Langar (west) when the occurrence took place.

The contention of the learned counsel for the S.G.P.C. is that the Government servants should not be believed because the enquiry is mainly directed against their action while Sri Ishwar Chand Goel and Sri Siri Ram Zakhmi should not be relied upon because they must be under the influence of Government servants and appear to have reached there at their instance. Another point urged was that the injuries received by constables were superficial and appear to be self-inflicted or self-suffered and could not have been caused with brick-bats or with swords, spears and *chakkars*.

On the other hand, the contention of Sri Shrawandeo, learned counsel for the Government servants, is that none of the witnesses examined by the S.G.P.C. could be relied upon because.

- (1) it was clear from their cross-examination that they were unreliable witnesses, and
- (2) they were definitely telling a lie when they stated about the time of the firing to be between 12 noon and 1 p.m. and denied that Darshan Singh had gone to consult the Jathedar and also denied that Baldeo Singh constable had been dragged in and injured inside Darbar Sahib.

Darshan Singh did come out of Darbar hall to consult Jathedar.

The facts and circumstances of the case are such that there can be no doubt that Darshan Singh Nihang must have come out of the eastern window of Darbar Sahib in order to consult the Jathedar. D.I. Sri Daulat Ram (witness No. 12) happened to be present towards the eastern side of Darbar Sahib when Darshan Singh came out of a window on that side. He stated as follows:

“Darshan Singh opened window No. 1 on the side of the School and told me that he wanted to see the Jathedar so that he may be in a position to decide about the delivery of possession of the Gurdwara. Darshan Singh came out through that very window. The Superintendent of Police took him to Jathedar Harbhajan Singh.”

Sri N. K. Singhal, Superintendent of Police (witness No. 42) was informed that Darshan Singh wanted to see the Jathedar. The Superintendent of Police, therefore, went towards the school side and saw a Nihang standing near the first window of Darbar Sahib. That Nihang, whose name he came to know later to be Darshan Singh, told him that he wanted to see Jathedar Harbhajan Singh so that after receiving his instructions he might be in a position to persuade other Nihangs to leave possession of the Gurdwara. The Superintendent of Police agreed to take him to Jathedar Harbhajan Singh and in his presence he jumped out of window No. 1 and was taken first to the Deputy Commissioner and then to the Jathedar. The Superintendent of Police fully supports the case of the Government servants regarding the talk which Darshan Singh had with the Jathedar and the Deputy Commissioner and also as to what he did after he met the Nihangs.

Sri K. R. Chandel, Deputy Commissioner, Sri Kashmir Singh, Revenue Assistant, Sri Mansa Ram, Civil Nazir, Sri Siri Ram Zakhmi, and Sri Ishwar Chand Goel have corroborated the statement made by the Superintendent of Police on that point. The Deputy Commissioner and Sri Kashmir Singh depose about the talk which had taken place between Darshan Singh and the Deputy Commissioner at the time when he was being taken to meet the Jathedar and also on his return before he went to convey the message of the Jathedar to the Nihangs inside the Darbar Sahib. Sri Siri Ram Zakhmi and Sri Ishwar Chand Goel have also stated that Darshan Singh had been brought by the Superintendent of Police from inside Gurdwara premises, had gone to see Jathedar Harbhajan Singh in the Rest House, and had returned from there near about 2 p.m. on that day.

The name of Darshan Singh was mentioned as one of the witnesses for the S.G.P.C. His gist of statement was also filed both by Sri Bhagat Singh Chawla, counsel for the S.G.P.C. (Sant Fateh Singh Group) and Sri Bahadur Singh, counsel for Akali Dal (Master Tara Singh Group). The witness was, however given up and not examined on the ground that he was an unnecessary witness. Sri Shrawandeo, counsel appearing for Government servants, opposed (vide his application Ex. B-33) the prayer for the discharge of the witness on the ground that according to the gist filed by Sri Bahadur Singh, the witness had admitted that he had gone to the Jathedar. Darshan Singh was

not examined because no party was eager to examine him, and the Commission did not regard his testimony to be essential. Sri Shrawandeo, counsel for Government servants, has contended that in the circumstances the gist filed by Sri Bahadur Singh on behalf of Darshan Singh should be read in evidence in support of the case of the Government servants that Darshan Singh had gone to see the Jathedar. I do not consider that to be either proper or necessary. Since Darshan Singh has not been put in the witness box, no reliance can be placed on the gist of his statement submitted through his counsel. However, there exists reliable evidence on record to show that Darshan Singh did go to see the Jathedar as stated by Sri N. K. Singhal, Superintendent of Police, Sirmur, and other witnesses for Government servants. In the absence of any rebuttal furnished by the testimony of Darshan Singh himself, much reliance cannot be placed on the denial by Nihal Singh, Gurbachan Singh son of Ram Krishan, Ajit Singh and Karaka Singh.

It is significant to note that in the statement (copy Ex. A-11) made by Gurbachan Singh son of Ram Krishan, before the Tahsildar on 23-5-1964 he had stated that one of the Singhs had gone out of the window towards the school side but he could not say whether or not he had returned to the Darbar Hall. The statement made by the witness was put to him during his cross-examination, and he stated that no Nihang Sikh ever went outside the Darbar Sahib through the window on the east towards the school side. He could give no reason why the Tahsildar had recorded that fact in his statement.

There can be no doubt that the "Singh" referred to by the witness in his statement before the Tehsildar could be none else but Darshan Singh Nihang. Gurbachan Singh (witness No. 4) appears to have changed his statement in order to suit the case of the Nihangs.

The action of the Deputy Commissioner and the Superintendent of Police to allow Darshan Singh to go and see the Jathedar so that the warrant of possession could be executed without any opposition from the Nihangs is quite consistent with their previous conduct. As noticed earlier, both the Deputy Commissioner and the Superintendent of Police had always endeavoured towards an amicable settlement of the Gurdwara dispute between the Nihangs and the Mahant and, therefore, the action taken by them with regard to Darshan Singh was consistent with their previous efforts.

I find that Darshan Singh, who was inside the Darbar Sahib when the police arrived did go out through one of the eastern windows to see the Jathedar and to seek his instructions about the delivery of possession of the Gurdwara, that the Jathedar advised him that the Nihangs should either kill or be killed but in no circumstance should leave possession of the Gurdwara and that after holding some talk with the Deputy Commissioner in which he had suggested that he would leave one or two *sewadars* in Gurdwara Paonta Sahib after other Nihangs had left the possession of the Gurdwara he again went near the same window and apprised the Nihangs of the message of the Jathedar.



Constable Baldeo Singh was dragged inside Darbar Sahib by Nihangs and attacked.

Again, there can be no doubt that Baldeo Singh (witness No. 13) had been dragged inside the Darbar Hall through a door on the Langar side and was attacked by the Nihangs after the aforesaid door had been closed by them. Baldeo Singh has been examined as witness No. 13. He stated that he was dragged by the Nihangs inside Darbar Sahib at about 2.00 or 2.15 p.m. A.S.I. Sri Balwant Singh had given instructions to him to go near the door and to make the Nihangs understand not to make noise inside Darbar Sahib but to leave it peacefully. As soon as he reached near the door towards Langar side to tell the Nihangs what he had been instructed to tell, the Nihangs suddenly opened the door and three or four of them pounced upon him and after catching hold of him dragged him inside Darbar Sahib. Constable Roshan Lal (witness No. 14) was only one or two paces behind him. He tried to rescue Baldeo Singh but the Nihangs inflicted injuries on him also with swords and spears with the result that he could not successfully intervene.

The attack made by the Nihangs inside Darbar Sahib was described by Baldeo Singh as follows:—

“Two or three Nihangs had caught hold of me. Another Nihang came and gave me a blow with a sword on my head as a result of which my turban fell down on the ground. I cried out ‘*mar dia; mar dia*’ (I am being killed; I am being killed). The Nihangs continued to inflict sword injuries on me. Two injuries were inflicted on the head, one on the right arm, one on the left leg and two on my back. One spear injury was caused to me on my chest. I must have remained inside Darbar Sahib for about two or three minutes only”.

The witness was cross-examined at length but there is nothing in his cross-examination to show that he was not speaking the truth. His statement is fully corroborated by Roshan Lal (witness No. 14), who stated that as soon as the Nihangs caught hold of Baldeo Singh and started dragging him inside the Darbar Sahib he tried to rescue him by using his lathi against the Nihangs. However, the Nihangs inflicted injuries on him with swords and spear and succeeded in dragging Baldeo Singh inside Darbar Sahib. Thereafter they closed the door. Roshan Lal could hear Baldeo Singh crying “*mar dia; mar dia*” (I am being killed) from inside Darbar Sahib. According to this witness also Baldeo Singh must have remained inside Darbar Sahib for about two or three minutes only and at the time he came out there was blood on his head, face and uniform and he had no turban on his head.

Sri Kapur Chand S.H.O. (witness No. 11), who was posted on the Langar side, fully corroborated the statement made by Baldeo Singh and Roshan Lal.

The turban of Baldeo Singh was recovered from inside Darbar Hall after the firing had taken place. It was lying near the door and there was a long cut visible on its folds. Three of the folds of his turban had been cut to a sufficiently great depth. Two other folds—one just above and one just below the main cut—had also been cut to some extent. The blade of the weapon used must have been fairly long to make such a mark on the



turban (Ex. M-18).

It was contended by Sri B. S. Chawla, learned counsel for the S.G.P.C., that the folds of the turban could have been cut with a blade to give such an appearance. In my opinion there appears to be no basis for such a suggestion. The injury report (Ex. A-68) of Baldeo Singh will show that he had received many serious injuries, some of which must have been caused with a sword.

The news that Baldeo Singh had been taken by the Nihangs inside Darbar Sahib and that his life was in danger was immediately conveyed to the Deputy Commissioner, Sri K. R. Chandel, who was till then standing beneath the *sheesham* tree. He at once moved towards the Deorhi Gate. Others, who were standing near him, also accompanied him to that place. The Deputy Commissioner ordered that doors and windows of Darbar Sahib should be broken open so that constable Baldeo Singh could be saved. Two head constables and six constables armed with muskets had till then been kept outside the Gurdwara precincts. The Superintendent of Police, Sri N. K. Singhal, ordered that the armed constables should be posted inside Gurdwara premises. One squad consisting of one Head constable (Shankar Lal, witness No. 17) and three constables was made to stand at a small distance from the northern door of Darbar Sahib; while a similar squad consisting of three armed constables and one armed head constable (Raghubir Singh, witness No. 18) was stationed on the Langar side in front of the door through which Baldeo Singh had been dragged inside Darbar Sahib. The firing squad on the Langar side was placed under the command of S.I. Kapur Chand, while the firing squad on the front side was put under the command of D.I. Daulat Ram.

Deputy Commissioner ordered doors and windows to be broken open far rescuing the Constable.

In obedience to the orders given by the Deputy Commissioner, Sri K. R. Chandel, the police constables engaged themselves in breaking open the doors and windows of Darbar Sahib with the help of iron pipes and *ballis*. One window on the school side, one door on the front side and one window and one door on the Langar side (western side) were broken open. In the meantime, Baldeo Singh got an opportunity and slipped out of the door through which he had been dragged in and near which he was standing when he found that the door had suddenly opened. The constable could not notice how the door got opened.

Immediately after Baldeo Singh had come out of Darbar Sahib, he and Roshan Lal were sent to the hospital at Paonta for medical attendance. Dr. D. R. Sharma (witness No. 40) examined their injuries at 2-50 p.m. on 22nd May, 1964. Injury report Ex. A-68 will show that Baldeo Singh had received the following eight injuries:—

Constable Baldeo Singh came out with serious injuries.

- (1) Incised wound  $6\frac{1}{2}'' \times \frac{1}{8}'' \times$  bone deep on vertex of head in antero posterior direction, profusely bleeding.
- (2) Incised wound  $2\frac{1}{2}'' \times \frac{1}{8}'' \times \frac{1}{8}''$  bone deep in front on the head from hair line with slope downwards, oblique upwards and medial-ward.
- (3) Incised wound  $3'' \times \frac{1}{8}'' \times$  skin deep on right forearm outer aspect oblique upwards and outwards towards

the radial side, bleeding.

- (4) Incised wound  $1\frac{1}{4} \times \frac{1}{6}$  skin deep on left poplital fossa oblique, bleeding.
- (5) Incised wound  $4 \times \frac{1}{6}$  skin deep on left shoulder transverse on the back transverse over supra spinous.
- (6) Stab wound  $\frac{1}{2} \times \frac{1}{4} \times \frac{1}{4}$  on left sub-clavian region near the middle of it, bleeding.
- (7) Incised wound on right shoulder blade at its lower angle transverse  $4\frac{1}{2} \times 1\frac{1}{6} \times \frac{1}{2}$  skin deep, bleeding.
- (8) One stab wound  $\frac{1}{2} \times 1\frac{1}{6} \times$  skin deep on right ankle inner side, bleeding.

All the wounds were bleeding. Both scalp wounds were bleeding. Both scalp wounds, the forearm wound and the poplital wounds were stitched and dressed. Patient admitted to hospital in a condition of collapse.

Roshan Lal had also received as many as five injuries as detailed below:—

- (1) Incised wound on right eye-brow outer half  $\frac{3}{4} \times \frac{1}{8}$  skin deep transverse with a dent in the bone underneath, freshly bleeding.
- (2) Incised wound  $1\frac{3}{4} \times \frac{1}{6} \times \frac{1}{2}$  skin deep on left 8th rib, oblique, in nipple line.
- (3) Incised wound  $1\frac{1}{4} \times \frac{1}{2}$  skin deep on left arm outer aspect.
- (4) Incised wound  $\frac{3}{4} \times \frac{1}{6} \times \frac{1}{2}$  skin deep on right shoulder.
- (5) Incised wound on left hand fore-finger, middle finger and ring finger last digit in a straight line with slanting downwards out, skin deep, cutting the front facets, freshly bleeding.

Dr. Santokh Singh Anand (witness No. 41), after having examined the injury reports of Baldeo Singh and Roshan Lal, stated that injuries Nos. 1 and 2 of Baldeo Singh could have been caused with a sword but the remaining injuries of Baldeo Singh and all the injuries of Roshan Lal could not have been caused either with a sword or with a spear or with a *chakkar*. The doctor was also of the opinion that most of the abovementioned injuries could have been self-inflicted or self-suffered.

Earlier in my report I have discussed the value of the opinion evidence of Dr. Anand. His examination revealed that he had based his opinion merely on the circumstance that the injuries caused were skin deep. Inasmuch as a sword or a spear or a *chakkar* is a heavy cutting instrument the doctor arrived at the conclusion that skin deep injuries could not have been caused with any such weapon. The doctor did not take into consideration other factors, such as the force with which the blow was struck, the awareness of the person on whom the blow was struck and whether or not he was free to move his body at the time the blows were being struck. Where the intention is not to cause very serious injuries to any person, even skin deep injuries can be caused with heavy weapons, such as swords and spears.

In the circumstances of the case I am not prepared to conclude that the injuries received either by Baldeo Singh or Roshan Lal were self-inflicted or self-suffered.

It was contended by Sri B. S. Chawla, learned counsel for the S.G.P.C. that Baldeo Singh and other witnesses on this point should not be believed because it is not clear—

- (1) why Baldeo Singh had gone near the door on the western side,
- (2) why more serious injuries were not caused to Baldeo Singh and Roshan Lal,  
and
- (3) how Baldeo Singh had managed to escape from Darbar Hall.

In my opinion there is no force in any of these contentions. Baldeo Singh had clearly mentioned the reason why he had gone near the door at the time the Nihangs suddenly opened the door and started dragging him inside. It was not for Baldeo Singh to explain why he had not been more seriously injured. It may be that the Nihangs did not intend to kill him outright. Roshan Lal did not receive more serious injuries because he must have been trying to save himself by maintaining as much distance as he could, consistent with his effort to rescue Baldeo Singh. It is no doubt true that Baldeo Singh had not been able to tell how the door got opened and why he was allowed to leave the Darbar Hall when there must have been so many Nihangs near him. However, from that circumstance alone it cannot be inferred that the allegation regarding Baldeo Singh being dragged inside Darbar Sahib was a pure concoction.

As stated in the preceding paragraphs, there is overwhelming evidence on record to show that Baldeo Singh had been dragged inside Darbar Sahib and had been attacked by the Nihangs in the manner stated by the witness. The injuries received by him and other circumstances of the case also fully corroborate his version. The denial of the incident by Nihal Singh (witness No. 1) Gurbachan Singh son of Ram Krishan (witness No. 4), Ajit Singh (witness No. 8) and Karaka Singh (witness No. 29) is of no consequence.

The time of firing could not be between 12 noon and 1 p.m., as stated by the Nihangs, but it must have been 2-45 p.m., as stated by the Government servants. The firing could have been started only after Baldeo Singh had been dragged inside Darbar Sahib and the doors and windows of Darbar Hall had been ordered to be broken open. Baldeo Singh had received very serious injuries and must have been rushed to the hospital immediately after he had come out of Darbar Hall. That is exactly what has been stated by Baldeo Singh and other Government servants, who were examined before me. The injury report (Ex. A-68) prepared by the doctor shows that Baldeo Singh had reached the hospital at 2-50 p.m. The hospital is at a distance of about one furlong from Gurdwara Sahib. It is, therefore, clear that Baldeo Singh and Roshan Lal must have received injuries at about 2-30 p.m., as stated by them, and the firing must have taken place at about 2-45 p.m., as has been stated by the Government servants.

Nihal Singh Granthi (witness No. 1) deposed that the police entered the Gurdwara premises at about 12 noon, took about an hour in breaking open the doors and windows of Darbar Sahib and continued the firing for 20 to 25 minutes. Thus according to the statement made by Nihal Singh before the Commission, the firing must have ended at about 1-30 p.m. The statement made

Time of firing alleged by Nihangs wrong.

by Nihal Singh before the Tahsildar on 23-5-1964 was very much different. There the witness stated (vide his statement Ex. A-1) that the police force had entered Gurdwara Sahib premises between 1-00 and 2-00 p.m. and had taken about one hour to break open the doors and windows, after which they fired their guns. In case the policemen had started breaking open the doors and windows at about 1-30 p.m. and had taken about one hour to break open the doors and windows, the firing could not have taken place, according to the statement Ex. A-1, before 2-30 p.m. During the course of his cross-examination the witness admitted that the Tahsildar-Magistrate, Paonta, had recorded his statement on 23.5.1964. He, however, explained that the Tahsildar had not recorded his statement correctly.

I am not prepared to believe that the Tahsildar did not record the statement of Nihang witnesses correctly. It has come in the statement of the Tahsildar, and has also been admitted by the Nihang witnesses, including Nihal Singh, that the Nihangs had refused to give any statement to the Tahsildar when he had gone to them at about 2-30 p.m. on 23.5.1964. He informed the Deputy Commissioner that the Nihangs were not giving any statement. Santa Singh (witness No. 22), who was one of the signatories of application Ex. A-48, presented to the Deputy Commissioner, stating the grievances of the public, offered to accompany the Tahsildar and to persuade the Nihangs to give their statements. It was in the presence of Santa Singh (witness No. 22) that the statement of the Nihang witnesses was recorded by the Tahsildar.

A case under section 307 of the Indian Penal Code and other provisions of the same Code was registered against all the Nihangs who had been arrested from inside the Gurdwara on 22.5.1964. The Tahsildar-Magistrate had tried to administer oath to the Nihangs before recording their statements. Nihal Singh Granthi had refused to take any oath. It was contended by Sri B. S. Chawla, learned counsel for the S.G.P.C., that no reliance whatsoever could be placed on the statements so recorded by the Tahsildar-Magistrate. I see no force in this contention. The statement of Nihal Singh recorded by the Tahsildar-Magistrate is not being utilised in any criminal proceedings against him. The statement recorded by the Tahsildar-Magistrate appears to have been fairly recorded and, therefore, could be utilised at the time of the cross-examination of the witnesses to contradict him.

The police force had arrived in front of Gurdwara Paonta Sahib at about 12-30 p.m. The *chobara* incident must have taken place after about half an hour. Darshan Singh's episode was also bound to take some time. The statement of the Government servants that it took about one hour appears to be quite reasonable. Then followed the dragging in of Baldeo Singh and the breaking open of the doors and windows of Darbar Sahib under the orders of the Deputy Commissioner. In the circumstances the time of the firing must have been about 2-45 p.m., as stated by the Government servants.

There are two other circumstances which go to support the version put forward by the Government servants:

(1) Injuries received by as many as 26 constables.

(2) The recoveries made from the *ahqta* of the Gurdwara immediately after the firing.

Besides Samudha Ram, Abdul Majid, Baldeo Singh and Roshan Lal, whose injuries have already been discussed, 22 other constables received injuries on the same day and were examined by Dr. D. R. Sharma (witness No. 40). The injury reports prepared by the doctor are Exs. A-66 to A-70 on the record. Randhir Singh constable (witness No. 21) and constable Het Ram (witness No. 25) stated that they were injured at the time they were arresting the Nihangs after the firing was over. Het Ram (witness No. 25), however, stated that before the time of firing he had also received one injury with a *chakkar* causing triangular incised wound  $\frac{1}{4}'' \times \frac{1}{2}'' \times$  skin deep on left middle finger. Eleven other constables, namely, Jagdish Chand, Gian Chand, Chuhi Ram, Singhara Singh, Sandhu Ram, Ram Gopal, Abdul Rashid, Devinder Datt, Rattan Singh, Shivcharan Das and Tek Chand, received incised or stab wounds, while the remaining nine constables seem to have received injuries with blunt weapons or objects. Except in the case of Jagdish Chand and Ram Gopal, the injuries received by other constables were either skin deep or of superficial nature. Jagdish Chand suffered one incised wound, elliptical, on outer aspect of his right arm middle,  $7\frac{1}{2}'' \times \frac{1}{2}''$  slanting for  $5''$  cutting the soft parts to the bone from below upwards, freshly bleeding profusely, with hanging skin and soft parts. One of the injuries of Ram Gopal was a stab wound  $\frac{1}{2}'' \times \frac{1}{8}'' \times \frac{1}{4}''$  on tip of right thumb. It was, therefore, contended on the basis of the opinion evidence given by Dr. Anand (witness No. 41) that the injuries of most of these constables must have been self-inflicted or self-suffered in order to justify the firing. For reasons already given while discussing the injuries received by Samudha Ram and Baldeo Singh I find it very difficult to place any reliance on the opinion evidence of Dr. Anand. It has to be remembered that according to the statement made by Government servants the Nihangs were throwing *chakkars* after partially opening the doors and windows. In the circumstances they could not have thrown *chakkars* with any great force and it is not at all surprising that the injuries received by the constables in most cases were skin-deep or superficial. I am not prepared to believe that these injuries were self-inflicted or self-suffered.

The recoveries made after the firing within Gurdwara precincts also go to support the case of Government servants that the Nihangs had been consistently attacking them from inside Darbar Sahib before they launched their final attack. One bow, 17 arrows, 2 small *kripans* were found lying in the compound towards the north of Darbar Sahib, while one bloodstained sword, 27 *chakkars* and a blade of *barchha* were lying on the Langar side towards the west of Darbar Sahib. A recovery memo (Ex. A-27) was prepared.

Out of the Nihangs who were inside Darbar Hall at the time of the occurrence only four, namely, Nihal Singh Granthi (witness No. 1), Gurbachan Singh son of Ram Krishan (witness No. 4), Ajit Singh (witness No. 8) and Karaka Singh (witness No. 29) have been examined. Their presence inside Darbar Sahib cannot be doubted. No reliance can, however, be placed on them

because they did not seem to have made true and straightforward statements on three material points, to wit, the time of the occurrence, Darshan Singh's episode and Baldeo Singh's incident. They tried to state something which could not be true. They have also made material departures from the gist of their statements filed before the Commission as will be discussed under clause (d) of the Reference.

Version of Government Servants Correct.

The result is that I find that the version of the incident given by the Government servants is correct and the entire occurrence from the time of the arrival of the police force inside Gurdwara premises upto the time of the firing took place in the manner stated by them.

Alleged Illegalities and Irregularities on the part of Government servants.

Before concluding my report on clause (a) of the Reference, I must refer to the following alleged illegalities or irregularities which, according to the argument of Sri B. S. Chawla, learned counsel for the S.G.P.C., were committed by Government servants:—

- (1) The suit under section 92 of the Code of Civil Procedure was filed without a certified copy of the order of the Advocate-General granting permission to institute the suit.
- (2) No list of property was given in the warrant of possession.
- (3) According to the statement made by the Civil Nazir, the warrant of possession was not with him at 12-30 p.m. when he went to Gurdwara to deliver possession to the Receiver.
- (4) The warrant could not have been executed against the Nihangs other than Jathedar Harbhajan Singh.
- (5) Since there had been obstruction by the Nihangs, it had become necessary for the Civil Nazir and other Government servants, who were helping him, to seek fresh directions from the court of the District Judge.

The suit under section 92 of the Code of Civil Procedure was filed after obtaining an attested copy of the order of the Deputy Commissioner in his capacity as the Advocate-General for the district. The copy was attested by the Superintendent of the Deputy Commissioner's office. There is no court-fee label on the copy. The cross-examination of Sri K. R. Chandel (witness No. 47) revealed that a copy of his order must have been delivered to the Advocate of the plaintiffs in the suit under section 92 of the Code of Civil Procedure under his verbal orders. Since a request for the same must have been made to him, he explained, that he must have permitted his office to give a copy of that order without any formal application, the reason being that the order passed by him was in his administrative capacity.

It appears that the plaintiffs, instead of obtaining a copy of the order of the Deputy Commissioner granting permission to file the suit under section 92 of the Code of Civil Procedure through the copying agency, contented themselves with the copy which they got under the directions of the Deputy Commissioner and filed the same along with that plaint. This defect could not be noticed by the office of the District Judge.

The position, therefore, was that the suit under section 92 of the



Code of Civil Procedure was filed after having obtained the permission of the Deputy Commissioner in his capacity as the Advocate-General and an attested copy of the order of the Deputy Commissioner was filed along with the plaint. The attested copy clearly revealed that permission had been granted.

The better course for the plaintiffs would have been to obtain a copy of the Deputy Commissioner's order through the copying agency after having paid court-fee for the same. However, no provision of law has been shown to me under which it could be said that the suit under section 92 of the Code of Civil Procedure became incompetent merely because a certified copy granted by the Copying Department did not accompany the plaint. The filing of such a copy along with the plaint (a defect which was not noticed by the office of the District Judge on 20th or 21st May, 1964) did not, in my opinion, invalidate the institution of the suit. At the most, it was an irregularity which need not be taken notice of for the purposes of the present enquiry.

It is true that no list of property of the Gurdwara was mentioned in the warrant of possession (copy Ex. A-22). However, the order of the court, both to Jathedar Harbhajan Singh and Mahant Gurdial Singh, was as follows:—

“You are hereby directed to place all the properties movable and immovable of Gurdwara Sahib Paonta in the hands of the Receiver immediately along with all account books etc., and not interfere henceforth with the management of the affairs of the Gurdwara now vested in the Receiver.

You may, however, file your objections, if any, on the next date of hearing of the suit, i.e., 13th August, 1964”.

Sri Mansa Ram, Civil Nazir, stated during the course of his cross-examination that he did not know all the details of the movable and immovable properties of Gurdwara Sahib Paonta. His impression, however, was that he could ascertain about the details of the movable properties at the spot and could know about the details of the immovable property from Ishwar Chand Goel, who was the President of the Small Town Committee.

The Receiver had been appointed under the provisions of Order XL, Rule 1, Civil Procedure Code. All the properties of the Gurdwara Paonta Sahib, therefore, vested in the Receiver immediately after his appointment. Possession over Gurdwara Paonta Sahib could be delivered to the Receiver without ascertaining its boundaries. The Gurdwara was a well-known building and the mention of the boundaries was not necessary. In case the parties did not give the details of the properties, movable and immovable, belonging to the Gurdwara, the Receiver could himself find out the same in due course and take steps to see that all the properties belonging to the Gurdwara came under his control. Jathedar Harbhajan Singh, who was in possession of the Gurdwara, could also normally be expected to hand over all the properties of the Gurdwara to the Receiver.

In the circumstances it cannot be said that the order passed by the Court was not capable of being executed.

Sri Mansa Ram, Civil Nazir, stated in his cross-examination that at 12-30 p.m. on 22nd May, 1964, he left the Rest House in the company of the Deputy Commissioner and proceeded towards

the Gurdwara. He left the warrant of possession with Chatter Singh, process server, for writing out the report. Chatter Singh wrote out the report and produced the papers before him at about 1 p.m. when he signed them. It is on the basis of this statement made by Sri Mansa Ram Civil Nazir that it is contended that the Civil Nazir and others were not entitled to go to the Gurdwara before 1 p.m. in order to deliver possession of the Gurdwara properties to the Receiver.

There is no force in this contention. The warrant of possession was with the Civil Nazir when he reached Paonta. He had given it to the process server at about 12-30 p.m. in order to write out a report. It has come in the evidence that the Rest House at Paonta where he had left the process server, is at a distance of a few hundred yards only from Gurdwara Paonta Sahib. The warrant of possession had already been shown to Jathedar Harbhajan Singh and its contents explained to him. It was only after he had refused to sign the warrant of possession in token of service having been effected on him that the process server was directed to write out a report.

In my opinion no irregularity whatsoever was committed by the Civil Nazir when he directed the process server to write out the report and himself proceeded towards the Gurdwara which was at a distance of a few hundred yards only from the Rest House, particularly after he had shown the warrant of possession to Jathedar Harbhajan Singh and had effected service of the order of the court on him. The Civil Nazir could have no difficulty even in showing the warrant of possession to anyone inside the Gurdwara in case someone had asked him to do so. The Rest House was so close to the Gurdwara that the Civil Nazir would not have found it difficult to get the warrant of possession from Chatter Singh, his process server, if and when required. In any case the warrant of possession reached the Civil Nazir at 1 p.m.

Immediately on his arrival before the Gurdwara, the District Magistrate announced the substance of the court's order over the loud-speaker.

In my opinion, the facts of the case are such that it cannot be said that the Civil Nazir and others had gone to the Gurdwara without the order of the court. No illegality or irregularity was committed in that respect.

Another argument advanced by Sri B. S. Chawla, learned counsel for the S.G.P.C., was that inasmuch as the warrant of possession issued by the District Judge was directed only against two persons, namely, Jathedar Harbhajan Singh of Tarna Dal of the Nihangs and Mahant Gurdial Singh, it could not have been executed against other Nihangs who, after the arrest of the Jathedar remained in possession of Gurdwara Paonta Sahib. His contention is that the warrant of possession could not be executed against third parties, such as the Nihangs who were in possession of the Gurdwara at that time.

It is not disputed that the Nihangs, who were in possession of Gurdwara Paonta Sahib at that time belonged to Tarna Dal, the jatha of Harbhajan Singh. All the Nihangs had come to Paonta under the command of Jathedar Harbhajan Singh.

Jathedar Harbhajan Singh during the course of his cross-examination stated that

“All the Nihangs who are in my Jatha obey me and I make arrangements for them”.

He also explained that the Nihangs of his Jatha keep on coming and going. Even after his arrival at Paonta some of the members of his Jatha who had originally come with him had left and others of his Jatha had arrived. Several witnesses for Nihangs such as Nihal Singh Granthi (witness No. 1), Gurbachan Singh son of Ram Krishan (witness No. 4), Ajit Singh (witness No. 8) and Karaka Singh (witness No. 29) were examined before the Commission. It is, however, significant to note that none of them stated before the Commission that he was in possession of the Gurdwara in his own right.

Taking into consideration the nature of the organisation of Nihangs, there can be no doubt that the Nihangs, who were inside Gurdwara Paonta Sahib at about 12-30 p.m. on 22nd May, 1964, were holding the Gurdwara on behalf of Jathedar Harbhajan Singh.

The part played by Darshan Singh also fully reveals that the Nihangs were holding the Gurdwara on behalf of Jathedar Harbhajan Singh and were only awaiting the command of their leader before taking a decision whether or not to leave the Gurdwara.

The Nihangs, who were holding the Gurdwara merely on behalf of Jathedar Harbhajan Singh, could very well be asked by the Civil Nazir to vacate it so that possession could be delivered to the Receiver. Sri B. S. Chawla, learned counsel for the S.G.P.C. relied on sub-rule (2) of Rule 1, Order XL, Civil Procedure Code, which reads as follows:—

“(2) Nothing in this rule shall authorise the court to remove from the possession or custody of property any person whom any party to the suit has not a present right to remove”.

The provision of law quoted by the learned counsel has no application to the facts of the present case, because my finding is that the Nihangs, who were inside the Gurdwara, were not holding it in their own right but merely on behalf of Jathedar Harbhajan Singh, who had been ordered by the Court of the District Judge to deliver possession to the Receiver.

No illegality was, therefore, being committed when Sri Mansa Ram, Civil Nazir, assisted by the police force went to the Gurdwara to deliver possession to the Receiver after Jathedar Harbhajan Singh had been arrested.

The last illegality pointed out by Sri B. S. Chawla, learned counsel for the S.G.P.C., was that after an obstruction had been made by the Nihangs it became incumbent upon the Civil Nazir to withdraw and to seek fresh directions from the court. In my opinion there is no force in this contention and no illegality was being committed when the Civil Nazir did not withdraw from there. It had been brought to the notice of the court that there was likely to be an obstruction by or on behalf of the Jathedar at the time of delivery of possession to the Receiver and it was for that reason that police help had been prayed for and granted. The Superintendent of Police with a fairly large number of police

In fact no illegality was committed.

constables was already there and ready to give police help to the Civil Nazir. In the circumstances, it was not at all necessary for the Civil Nazir to have withdrawn from there in order to seek fresh directions from the court. In fact no case for seeking fresh directions from the court was made out.

#### Clause (b) of the Reference

The case of the Government servants was that only 65 to 75 constables had assembled outside Gurdwara Paonta Sahib at about 12-30 p.m. on 22nd May, 1964. Twentyfour or twentyfive constables had come from police station Paonta, while 40 to 50 constables had come on three vehicles from Nahan. Two head constables and six constables were armed with muskets and four of them (2 head constables and 2 constables), who had been supplied ammunition from the Malkhana of police station Nahan, had been given 20 rounds each. The remaining four constables had brought their ammunition from Nahan. All other police constables were either armed with lathis or were empty-handed.

Government servants version of events just before Firing and the Firing.

The case of the Government servants further was that after some of the doors and windows had been broken open and Baldeo Singh had gone out of Darbar Hall and he and Roshan Lal had been sent to the hospital, reports of two or three gunfires were heard from inside Darbar Hall and immediately thereafter 8 or 9 Nihangs rushed out of the northern door (*darshani darwaza*) of Darbar Hall, while 7 or 8 Nihangs came out through a door on the Langar side and attempted to rush towards the police force stationed there. The Deputy Commissioner, who was on the northern side and was standing beneath the porch of the Deorhi Gate of the Gurdwara, warned the Nihangs that unless they threw away their arms, they would be fired at. The Nihangs paid no heed to the warnings given by the Deputy Commissioner and kept on descending the staircase fully armed in order to reach the police force. On the side of the *Darshani Darwaza* one of the Nihangs, who had a gun with him, fired in the direction of the police constables and others, who were standing towards north. Fortunately none was injured. It was at that stage that the Deputy Commissioner, Sri K. R. Chandel, ordered the Superintendent of Police to direct the firing to be done. Consequently orders were given to members of both the squads by their immediate heads to open fire. On the front side 10 rounds were fired. At first two shots were fired and then two volleys, each of four rounds, were fired. The first two shots did not seem to have struck anybody. However, as a result of the next volley of 4 rounds having been fired, the Nihang who was holding the gun fell down dead but no one else seemed to be injured. On Langar side also, the first volley of 4 rounds was fired at about the same time when the first volley of 4 rounds was fired on the front side. One Nihang fell down injured below the staircase on the Langar side as a result of the first volley. However, the first volley had no deterrent effect on the Nihangs, who still proceeded further. The second volley of 4 rounds, both on the front side and the Langar side, had to be fired as a result of which one Nihang fell down injured on the front side and few others received bullet injuries. Thereafter the Nihangs started running away and the Superintendent of Police

ordered that the firing be stopped. The constables rushed forward to arrest the Nihangs, who were running away. Some of the Nihangs, (such as Pritam Singh and Karaka Singh) resisted as a result of which 6 more Nihangs received injuries.

Sri K. R. Chandel (witness No. 47), Sri N. K. Singhal (witness No. 42), Sri Kashmir Singh (witness No. 7), Sri Mansa Ram, Civil Nazir (witness No. 10) Sri Hari Saran Das, Tahsildar (witness No. 39), S.I. Kapur Chand (witness No. 11), D.I. Daulat Ram (witness No. 12), head constable Shankar Lal (witness No. 17) who was in charge of the firing squad in front of the main door towards north, and head constable Raghubir Singh (witness No. 18), who was in charge of the firing squad on the Langar side, are the Government servants examined to prove the above facts. They are fully supported by two witnesses of the public, namely, Sri Siri Ram Zakhmi (witness No. 15) and Sri Ishwar Chand Goel (witness No. 16).

On the other hand, the case of the Nihangs and the S.G.P.C. is that soon after the doors and windows were broken open the police constables reached the five-feet high and four-feet wide platform which is on the northern, the eastern and the western side of the Darbar Hall and started indiscriminate firing on the Nihangs as a result of which a Granthi, who was reciting Akhand Path, was fatally wounded and fell down on Granth Sahib and several other Nihangs received bullet injuries. According to the Nihangs all persons, who received bullet injuries, were inside Darbar Hall at the time the firing took place and that they were dragged out of the Darbar Hall only after the firing had ended. According to the statements made by the Nihang witnesses no warning had been given by the Deputy Commissioner before the firing was started.

The version of Nihangs about the same-

The points of difference between the statements made by the Government servants and those of the Nihang witnesses are as follows:—

Points of difference.

- (1) The number of rounds fired.
- (2) Whether any gun had been fired by the Nihangs either inside or outside Darbar Sahib.
- (3) Whether the Nihangs attacked through the *darshani darwaza* and also through a door on the Langar side.
- (4) Whether or not any warning was given before the firing was started.
- (5) Whether the firing was done from a distance and from the places where the two firing squads are said to have been stationed or whether the firing was done through the doors and windows after the police constables had climbed up the platform.

Two witnesses of the public, namely, Siri Ram Zakhmi (witness No. 15) and Ishwar Chand Goel (witness No. 16) have supported the version placed before the Commission by the Government servants. It was, however, contended by Sri B. S. Chawla that no reliance should be placed on their statements because they must be under the influence of the district authorities. It was further argued by Sri B. S. Chawla that no reliance whatsoever should be placed on the statements made by Government servants because, according to him, the following circumstances will completely



belie their statements:—

- (1) At the time of the inspection bullet marks and repair marks were found on all the walls of Darbar Sahib on the inner side.
- (2) None amongst the injured Nihangs received injuries on the chest. Some of them received injuries on their backs.
- (3) No bullet marks could be noticed on the outer wall of Darbar Sahib near the *darshani darwaza* or the door on the Langar side through which the Nihangs are said to have launched their attack.
- (4) The Nihangs, who died, had also received contusions and bruises.
- (5) The Nihangs on coming out of the doors could see that firing squad was stationed just in front of them. They could not have thought of launching an attack under those conditions.

Before discussing the oral evidence led in the case, I proceed to consider the various circumstances relied upon by the learned counsel for the S.G.P.C. It is clear from the statements made by Sri N. K. Singhal (witness No. 42), who was in overall charge at the time of the firing, that only 8 rounds were fired from the Langar side and 10 from the front side. Sri Kapur Chand S.H.O. (witness No. 11) was in charge of the firing squad on the Langar side while Sri Daulat Ram, District Inspector (witness No. 12) was in charge of the firing squad on the front side. They also stated that 8 rounds had been fired on the Langar side and 10 on the front side. Shankar Lal head constable (witness No. 17), who was on the front side and Raghubir Singh head constable (witness No. 18), who was on the Langar side, also stated to the same effect. Both these head constable formed part of the firing squad. Each constable or head constable, who was a member of any of the two firing squads, had been given 20 rounds of ammunition each. Immediately after the firing had ended the ammunition was checked and it was found that only 18 rounds had been fired.

The Nihangs have not been able to give any clear idea of the number of rounds fired by the policemen. All that Nihal Singh (witness No. 1) could state was that the firing was indiscriminate and had continued, without a break, for about 20 to 25 minutes and that the guns had been fired through all the doors and windows which had been broken open. Gurbachan Singh son of Ram Krishan (witness No. 4) deposed that the policemen took about 20 to 25 minutes only for both the acts, to wit, the breaking open of the doors and windows and thereafter firing on the Nihangs through those openings. Ajit Singh (witness No. 8) stated that the firing looked like a shower of bullets. According to the statement made by Sundar Singh (witness No. 38) about 100 rounds must have been fired. The witness stated that 40 to 50 rounds must have been fired from the platform and about 50 rounds must have been fired inside Darbar Sahib after the police constables had entered Darbar Sahib. No reliance can be placed on the estimate of this witness because other Nihang witnesses had stated that firing was done only from outside Darbar Sahib and that after



the police constables had entered the Darbar Sahib only two rounds were fired (inside Harmandir Sahib) and no one was injured.

Whenever ammunition is issued from any *Malkhania* a record has to be maintained as to how much ammunition was taken out, how much was used and how much was returned. The Superintendent of Police and other Government servants could not, therefore, make any statement which might go against their records. On the other hand, nothing definite can be inferred from the contradictory statements made by the Nihangs, who have not been believed on so many other points. I, therefore, hold that only 18 rounds were fired inside Gurdwara premises on 22nd May, 1964.

18 Rounds  
in all were  
fired by two  
firing Squ-  
ads.

At the time I inspected Gurdwara Paonta Sahib I found that certain marks and depressions, as noted in the inspection note of Mr. Justice V. Bhargava, dated the 25th July, 1964, existed inside Darbar Sahib building. Eleven marks alleged to be bullet marks were shown on the eastern wall. To the south of the broken window in the east at a distance of 2-1/2 or 3 feet from the edge of it there was a mark in the wall. The plaster had gone off and a depression was made in the wall giving the impression that something like a bullet may have struck it. During the course of my second inspection made on 7th March, 1965, I noticed that the said mark could not be caused with a bullet coming through the south western door on the Langar side, in front of which the firing squad is alleged to have been stationed. It was, therefore, contended that this bullet mark must have been the result of bullet having been fired through the window opposite in the western wall of the Darbar Hall.

In the southern wall also there were two depressions at a height of 2 feet 7 inches and 3 feet 7 inches from the floor and two holes in the panel of the southern door. Six other marks were shown in the same wall. According to the inspection note there was a hole in the western wall also, which appeared to be like that caused by a bullet. It was at a height of 5 feet 8 inches from the floor. A pencil put inside that depressions indicated that if the hole was caused with a bullet the same must have come through the door in the southern wall. There were some stains on the wall near that hole and it was said that they were blood-stains. However, the same could not be confirmed. There were also two holes in the two panels of the western door. The depressions and marks were shown at other places also, such as the southern wall on the inner side of Harmandir Sahib, the outer face of wall of Harmandir Sahib and on the southern side of *Talab Sathan*. The marble tablet in the northern wall of Harmandir Sahib was chipped off. Besides that several repair marks were shown upto a height of 3 feet from the floor on all the four walls inside Darbar Sahib. It was suggested that other bullet marks had been concealed because repairs had been made. Most of these marks or depressions, though alleged by the learned counsel for the S.G.P.C. to be bullet marks, could not be caused with bullets fired from the places where firing squads were stationed.

Repairs appeared to have been made at various places on all the four walls of Darbar Sahib. However, there was nothing to indicate that those repairs were recent. They could have been made much before 22nd May, 1964. The fact that more than 22 holes or depressions existed on the inner walls of Darbar Sahib and some of them did, to the naked eye, appear as bullet marks, could not establish that they were bullet marks. I have already arrived at a finding that the door of Harmandir Sahib was locked at the time the firing took place and it was opened only at about 8-30 p.m. that evening, several hours after the firing had ended. The marks inside Harmandir Sahib could not be the result of bullets fired by police constables. The statement made by Nihal Singh that just after the firing some of the police constables had entered Harmandir Sahib also by unscrewing the bolt of the door and had fired two shots therein, is not worthy of credit. According to the gist of the statement of Nihal Singh (witness No. 1) he, along with certain persons, had, on the arrival of the police, taken shelter inside Harmandir Sahib. During the course of the cross-examination he was asked whether that part of his statement was true, and he stated that it was not true and he could give no explanation why that fact had been mentioned in the gist of his statement. Similarly, the police constables could not be interested to fire their muskets inside *Talab Sathan*.

While I was inspecting the hole of the southern wall, which had partly cut the door-leaf and partly the door-frame (*chaukhat*) and had caused chipping to both of them, my attention was drawn to the fact that this hole could not have been caused with a bullet fired from outside, if the door was closed. At the time of my second inspection made on 7th March, 1965, Sri Sampuran Singh, while assisting Sri Bahadur Singh Advocate, pointed out that the hole in the door-frame (*chaukhat*) is in the same line as the depression mark at the height of 4 feet 8 inches from the floor on the southern side of the *Talab Sathan*, the distance between the aforesaid hole and the depression mark being 16 feet 9 inches. If both this hole in the panel and the mark on the wall of *Talab Sathan* have resulted from the same bullet, it must have been fired from inside Darbar Sahib building. Surely the police constables could not be interested in such purposeless shooting.

Two small marks were shown in the western supporting wall of the platform where Granth Sahib is recited and in one of them there appeared to be something which looked like steel or lead. A few days before Sri M. Jauhri, Ballistic Expert, was to arrive an application was made by the learned counsel for the S.G.P.C. that portion of the plaster containing that steel or lead object should be taken out and shown to the expert. That application was granted and I appointed Sri P. N. Harkauli, my Secretary, as Commissioner, to go to Gurdwara Paonta Sahib and bring in a sealed cover that complete cement plaster slab with him containing the object which appeared like steel or lead. It was shown to the Ballistic Expert, Sri M. Jauhri. He took that so-called steel or lead portion out and observed that it did not appear to be steel or lead. He stated as follows:—

“To me it appears to be a stone piece because even after rubbing it with a knife, no shiny surface is available”.

The witness, however, added that no definite opinion could be given without chemical or spectrographical analysis.

In my opinion no definite inference can be drawn from the existence of so many marks or holes or depressions as noted in the inspection note dated 25th July, 1964, for the following reasons:—

- (1) One could not be definite which particular mark or hole was a bullet mark.
- (2) It has come in evidence that a few days after the date of the firing the Nihangs came to the Gurdwara and virtually entered into its possession. Any number of the Nihangs or their supporters could have gone inside Darbar Sahib between 1st June, 1964, and 25th July, 1964, when Mr. Justice V. Bhargava inspected Gurdwara Paonta Sahib. It could not, therefore, be said for certain that all the marks or holes or depressions which were found on the walls inside Darbar Sahib had existed on 22nd May, 1964.

The statement made by all the Government servants including Sri K. R. Chandel, Deputy Commissioner (witness No. 47) and Sri Kashmir Singh, Revenue Assistant (witness No. 7) was that immediately before the Nihangs launched their attack reports of two or three gunfires had been heard from inside Darbar Sahib. On the other hand, the statement made by the Nihang witnesses was that no gun had been fired by the Nihangs inside Darbar Sahib. Three muzzle-loading guns were found lying inside Darbar Sahib and were recovered from there immediately after the firing had taken place. One of them was lying close to the main door of Darbar Sahib, another towards the door on the Langar side and the third was resting against the wall near the almirah towards south. Inside the said almirah 2/3 chhataks of gun-powder, 22 lead balls which could be used in a muzzle-loading gun and 13 seemingly live percussion caps were found (vide recovery memo Ex. A-30). One more muzzle-loading gun was found lying near a dead Nihang on the staircase towards the north of Darbar Sahib. The lead balls and the percussion caps which were recovered from the southern almirah of Darbar Sahib were shown to Sri M. Jauhri, Assistant Director Forensic Science Laboratory, Calcutta (witness No. 26), who was examined as an expert. The witness stated that 16 out of 22 lead balls could be used even in the smallest size bore of the four guns (Exs. M-1 to M-4), which had been sent to him for examination and were also shown to him at the time of examination as a witness. As regards the percussion caps he stated that they were of proper size to be used in the guns. All the four guns had been sent to the Ballistic Expert for examination and the report given by him was that the nipple of one of the guns was blocked but the nipples of the remaining three guns were open and the examination of their barrel-washing revealed that they must have been fired sometime before they were received in the Laboratory of the expert. The witness could not, however, say when those guns had been fired.

All these guns were before 2nd April, 1964, with Mahant Gurdial Singh (witness No. 5), who stated that all the guns

were in working condition and every year he used to test them by firing them. Mahant Gurdial Singh (witness No. 5) had a licence for those guns but he admitted that he did not purchase any ammunition for those guns. It was, therefore, submitted that the statement of Mahant Gurdial Singh that he had been testing those guns every year should not be relied upon because he had no ammunition with which to test those guns.

Besides being purchased ammunition can also be borrowed from others. No question was put to Mahant Gurdial Singh (witness No. 5) in cross-examination to explain how he could fire from those guns every year when he had not purchased any ammunition. Had such question been put to Mahant Gurdial Singh (witness No. 5), he might have been able to explain from where he got the ammunition with which he used to test those firearms every year.

Whether or not Mahant Gurdial Singh (witness No. 5) tested those firearms every year, it is clear from the testimony of Sri M. Jauhri, the Ballistic Expert (witness No. 26) that three of those guns were in working condition. The gun-powder and the percussion caps had not been sent to the Ballistic Expert for examination, and, therefore, the witness could not say whether or not the same were live and could be used.

Sri B. S. Chawla, learned counsel for the S. G. P. C. has argued that inasmuch as the gun-powder and the percussion caps had not been sent to the Ballistic Expert for examination and report the Government servants have failed to establish beyond reasonable doubt that the material recovered could be used for firing a gun. There is good deal of force in that argument. At the same time it has to be remembered that inasmuch as the percussion caps and the gun-powder were not examined by any expert and there is no declaration by any competent authority that they were not live or useable, the probability that they might be live and useable cannot be excluded. It would, no doubt, have been better if the gun-powder and the percussion caps had been sent to the Ballistic Expert for examination and report. In that case it could be said with certainty whether or not the gun-powder and percussion caps were live and useable. However, from the circumstance that no such examination has taken place, it cannot be inferred that the material recovered was not live and useable.

According to the Nihang witnesses all the four guns, which were recovered immediately after the firing, used to be kept inside Harmandir Sahib and that they had been taken out from Harmandir Sahib by police constables after firing had ended, after unfastening the screws of the bolts of the door of Harmandir Sahib. No reliance can be placed on such a statement made by Nihal Singh (witness No. 1), Gurbachan Singh son of Ram Krishan (witness No. 4), Ajit Singh (witness No. 8) and Karaka Singh (witness No. 29), because

- (1) Nihal Singh (witness No. 1) had stated before the Tahsildar on 23-5-1964 (vide copy Ex. A-1) that on the arrival of the police inside Gurdwara he and others had gone inside Harmandir Sahib. He was confronted with that statement and he could give no explanation;

- (2) the Nihangs had been arrested or removed from near Darbar Sahib immediately after the occurrence, and
- (3) Santa Singh (witness No. 22), who was called by the Revenue Assistant on the evening of 22nd May, 1964, to arrange for the evening rituals inside Darbar Sahib and who reached the Darbar Hall at about 8-30 p.m. found that the door of Harmandir Sahib was locked and its key was not there.

It was necessary to open the door of Harmandir Sahib in order to perform the rituals and, therefore, the screws with which the bolt was fixed to the door were taken out so that the door could be opened. Admittedly the door of Harmandir Sahib was closed at the time of the firing. According to Nihal Singh (witness No. 1) the key of the lock of Harmandir Sahib was with Jathedar Harbhajan Singh while according to Gurbachan Singh son of Ram Krishan (witness No. 4), it was with Nihal Singh.

It is clear from the statement made by the Revenue Assistant and other Government servants that the door of Harmandir Sahib remained closed till 8-30 p.m. when it had to be opened in the presence of Santa Singh (witness No. 22).

In the circumstances the guns which were recovered immediately after the firing must have been taken out by the Nihangs themselves and the probability that they had fired it could not be excluded. Everything must, therefore, depend upon the reliability of witnesses.

It was contended by Sri B. S. Chawla, learned counsel for the S.G.P.C., that the case set up by Government servants that reports of two or three gunfires had been heard from inside Darbar Sahib before the attack was launched and that one of the Nihangs had come out with a gun and had fired it towards the northern side must be disbelieved because

- (1) there could be no sense in firing the gun inside the Darbar Hall itself;
- (2) the lead balls fired from the gun could not be recovered;
- (3) no one was injured as a result of the gun alleged to have been fired towards north of Darbar Sahib; and
- (4) the Nihangs did not carry all the four guns with them at the time they launched the attack.

In my opinion there is no force in any of these contentions. It is difficult to say what the purpose of the Nihangs could be when they fired two of the muzzle-loading guns inside Darbar Hall. They could have done so in order to scare away the police personnel, who had been breaking open the doors and windows.

It is true that the used lead balls were not recovered after the firing. However, no argument can be built on that circumstance because even according to the case of the Nihangs many fired bullet leads must have fallen inside Darbar Sahib during the course of the firing. It appears that no care was taken to collect the bullet lead that might have been lying inside Darbar Hall.

After two of the guns had been fired inside Darbar Sahib they could not be used again for some time. They were muzzle-loading guns and at least two to three minutes must be spent

in order to re-load them. Therefore, the already fired guns had to be left behind because the attack was launched by the Nihangs very soon after the doors and windows had been broken open.

The mere fact that no one was injured from the gun alleged to have been fired by the Nihangs towards north can hardly lead to the conclusion that the allegations about the firing of the gun is incorrect.

It was further contended by Sri B. S. Chawla, learned counsel for the S.G.P.C., that the story of the attack by the Nihangs through the northern and the western door of Darbar Sahib must be rejected because it is highly improbable. I find it difficult to accept this contention. It has come in evidence that Nihangs are members of Guru-ki-Fauj (conventional army of Guru Gobind Singh). The recovery memos prepared at the time of the arrest of these Nihangs clearly show that they were armed with lethal weapons, such as swords, spears and axes. Shields were also recovered from the possession of some of them. One of the Nihangs, who came out of the door towards north is said to have been armed with a gun. The Nihangs had remained inside Darbar Hall for more than two hours, when they received the message of the Jathedar that they must kill or be killed but in no case should hand over possession of the Gurdwara to the Receiver. In the circumstances it was not at all strange that the Nihangs made a last bid to overpower the police or to drive them away or cause as much damage to them as possible.

Another argument advanced before me was that the version of the Government servants must be rejected because no Nihang received any injury on his chest which should have been the case if they were marching forward towards the firing squads. The post-mortem reports (Ex. A-60/1 to Ex. A-60/3) of Nihangs No. 1 to No. 3 show that the three Nihangs who died received the following bullet injuries:—

#### *Nihang No. 1*

One bullet entry wound  $1\frac{1}{2}$ " round on right cheek middle traversing the mouth to the left angle of the mouth with an exit tear of 1" fracturing the upper jaw into four pieces and lower jaw into four pieces and lacerating the tongue.

#### *Nihang No. 2*

1. One bullet entry wound  $\frac{1}{2}$ " round on the back below right scapular lower angle and its exit wound  $\frac{3}{4}$ "  $\times$  1" oval on the back below the left scapular lower angle. The bullet tunnelled the skin all along and fractured the 9th and 10th right ribs at the entrance.
2. Bullet wound  $\frac{1}{2}$ " round right supra-scapular fossa piercing down into the apex of the lungs after fracturing 2nd and 3rd ribs and injuring the lung tissue down to the base where the bullet was found flattened.

#### *Nihang No. 3*

One bullet entry wound  $\frac{1}{2}$ " round on right lumber region



1½" above the iliac crest and 2" from spine, entering the abdomen. On opening the abdomen bullet track was through the ascending colon, meso-colon, perforating ilium at two places and jejunum at one place and the omentum between the stomach and transverse colon.

Nihang No. 1 could have received this injury while marching forward, if he had only turned his head towards left at the time the bullet hit him. The first bullet injury received by Nihang No. 2 is on the right side. The bullet had tunnelled the skin all along and, therefore, it is apparent that only his side was exposed towards the firing squad at the time the injury was received. The second injury received by Nihang No. 2 is on the right supra-scapular fossa piercing downwards into the apex of the lungs. This Nihang could have received this injury when he had fallen down so that his right supra scapular fossa came in line with the barrel of the musket.

It has to be remembered that even according to the case set up by the Nihangs one of the injuries to Nihang No. 2 could have been caused only after he had fallen down on the ground because the platform outside Darbar Sahib and the floor of Darbar Sahib are almost in one level.

The bullet injury of Nihang No. 3 is definitely on his back. It could not have been received by him while he was marching towards the firing squad.

The conclusions arrived at by me are also supported from the statement made by Dr. Santokh Singh Anand (witness No. 41) in his cross-examination.

Nihal Singh (witness No. 1), Gurbachan Singh (witness No. 4) and Ajit Singh (witness No. 8) also received bullet injuries as detailed below:—

#### *Ajit Singh*

Bullet wound on the right glutial region below the iliac crest on outer side.

#### *Gurbachan Singh*

1. Bullet wound on left shoulder outer side with swelling in the supra-clavicular region going to supra-spinous space.
2. Lacerated wound on the left hand ring and middle fingers. Badly mutilated muscles tendons and other soft structures with bone pieces lying in the wound.

#### *Nihal Singh*

Bullet wound ¾" round on back of left thigh in the centre of inferior glutial line. Bullet was palpable under the skin in front of abdomen in right paraumbilical region.

The injuries received by Nihal Singh being on the back of left thigh could not have been received while he was marching forward. The observation of Dr. Santokh Singh Anand, (witness No. 41) with regard to the injury of Nihal Singh is as follows:—

"If the victim was standing then the assailant must have

been on the lower level than the victim but if the victim was bending down then the assailant and the victim could have been on the same level”.

Ajit Singh could have received a bullet injury of that nature if his gluteal region below the iliac crest was exposed in the line of the muzzle of the gun (vide statement of Dr. Santokh Singh Anand, witness No. 41). In other words, he could have received injury if he was in a crouching position while facing the firing squad.

Gurbachan Singh son of Ram Krishan was examined as witness No. 4 and he stated as follows:—

“One bullet with which I was hit came through the *darshani* door. That bullet hit me on the back of the palm of my left hand. After receiving that bullet injury I turned aside and fell down on the ground. After I had fallen down I had received two bullet injuries on my left shoulder”.

The injury on the two fingers of left hand could have been received by Gurbachan Singh even while he was marching forward. Everything depends on the position of the left hand. The other injury could have been received by him after he had fallen down.

It is true that bullet marks could not be noticed on the outer walls of the Darbar Sahib on the northern and western sides. But that was by no means essential. Only 18 rounds were fired out of which 9 bullets found their marks on the Nihangs. My inspection note dated 7-3-1965 reveals that at least two marks, alleged to be bullet marks, found on the outer panel of the western door and three marks found on the wall of Harmandir Sahib or marble tablet or door of Harmandir Sahib could be in line with the barrel of the muskets held by the members of the firing squad stationed in front of the western and the northern doors. In case these were bullet marks, five more bullets are accounted for. Thus out of 18 bullets fired 14 may be duly accounted for. No adverse inference can be drawn merely because four or five of the bullets fired could not be accounted for.

None of the Nihangs who received bullet injuries had any injury on the chest. However, from that circumstance alone it cannot be inferred that the case set up by the Government servants must be false. The firing squads were operating under the orders of the superiors. The Nihangs could also see the members of the firing squads and could know when they were about to fire their muskets. The Nihangs could have slightly changed their positions whenever they expected the bullets to be fired. Besides, it has to be remembered that all the members of the firing squads were not standing at one and the same place although they were standing close to each other. The direction of the barrel of the gun of the member of the firing squad towards extreme right could be slightly towards left while the direction of the barrel of the gun of the members of the firing squad standing on the extreme left could be slightly towards the right, if the entire thing was to be viewed from the centre.

Taking all these facts and circumstances into consideration the probability that most of the Nihangs received the bullet injuries while they were on the staircase and determined to march ahead towards the firing squads in front of them, could not be excluded. In the split of a second when the last volley was being fired Nihang No. 3 and Nihal Singh might have turned their backs towards the firing squads and that could be the reason why Nihang No. 3 received a bullet injury on his right side back while Nihal Singh received a bullet injury on the back of his thigh. In the case of Nihal Singh it is significant to note the following statement made by Dr. Santokh Singh Anand (witness No. 41):—

“If the witness was standing then the assailant must have been on a lower level than the victim”.

It is to be remembered that according to the version of the Government servants the firing squad was stationed on the ground at a distance of about 30 paces from the staircase while Nihal Singh (witness No. 1) and other Nihangs were on the staircase which was at a higher level from the level of the ground on which the firing squad was stationed.

It was contended by the learned counsel for the S.G.P.C. that, in view of the fact that Nihang Nos. 1 and 2 had also received certain bruises and contusions, the case of the Government servants that they had died as a result of the firing in the manner stated by Government servants and had, at no stage, been beaten by the policemen, could not be correct. I have carefully examined the injuries of Nihangs Nos. 1 and 2. Besides, the bullet injury, Nihang No. 1 got an irregular bruise at the outer aspect of the right thigh while Nihang No. 2 got besides two bullet injuries, four other injuries, one of which was a lacerated wound  $3/4" \times 1/2"$  on outer border of left eye-brow, another a contusion on right thigh on outer aspect and the remaining two bruises, one on the forehead and the other on the back side of the left hand. All these injuries could be due to fall on the staircase.

The result is that the case of the Government servants is not negated by any of the circumstances relied upon by the learned counsel for the S.G.P.C. Everything will, therefore, depend upon the reliability of the witnesses examined by the parties.

The statement made by the Government servants is consistent and is fully supported by the deposition made by two members of the public, namely, Siri Ram Zakhmi (witness No. 15) and Ishwar Chand Goel (witness No. 16). Sri Ishwar Chand Goel (witness No. 16) is the President of Small Town Committee, Paonta. Nothing could be brought out in his cross-examination from which it could be shown that he must be under the influence of Government servants or could be interested in not stating the truth. Siri Ram Zakhmi (witness No. 15) is a resident of Nahan. On 22nd May, 1964, he had gone to Paonta in connection with the marriage of his sister's daughter and the Civil Nazir (witness No. 10) had asked him to accompany him at the time when the witness was going towards the Post Office. The presence of the witness at Paonta on 22nd May, 1964, cannot be doubted because he appeared as a witness on inquest reports

(Exs. A-41 to A-43) and also signed certain recovery memos (Exs. A-38 and A-39).

The witnesses for the Nihangs, as observed in the earlier part of my report, did not make straightforward statements and made so many wrong statements. It is, therefore, not possible to place any reliance on them.

Firing was ordered when Nihangs armed with Lethal Weapons came out of Darbar hall and charged towards Policemen.

Placing reliance on the witnesses for the Government servants I hold that the firing was ordered by the Deputy Commissioner at a time when eight or nine Nihangs had come out of the northern door of Darbar Sahib fully armed and were bent upon charging towards the police personnel. One of them was armed with a gun and had fired it in the direction in which the firing squad was stationed. I further hold that on the Langar side seven or eight Nihangs fully armed came out at that very time, bent upon charging towards the police personnel on that side.

It is clear from the statements made by Sri K. R. Chandel, the former Deputy Commissioner, Sri N. K. Singhal, Superintendent of Police, Sri Kashmir Singh, Revenue Assistant, and other Government servants that as soon as the Nihangs came out of the Darbar Hall fully armed, the Deputy Commissioner warned them to lay down their arms and also told them that unless they did so they would be fired at and that the order for firing was given when

- (a) they paid no heed to the warning given by the Deputy Commissioner, and
- (b) they kept on advancing and went down the steps bent upon reaching the police personnel.

There is no reason to doubt the statement made by the Government servants on that point. No reliance can be placed on the statements of Nihang witnesses according to whom no warning was given. The warning was given only by one officer, namely, the Deputy Commissioner, who was standing near the Deorhi Gate. No separate warning was given on the Langar side. That hardly matters because the warning given by the Deputy Commissioner was meant for all the Nihangs who had just come outside Darbar Hall and could be heard by Sri Kapur Chand, S.H.O., who was commanding the firing squad on the Langar side. The warning was meant for all the Nihangs, who were trying to get out of the Darbar Hall to launch an attack and could have been heard by those on the Langar side also if they had cared to listen. In my opinion the absence of a separate warning on the Langar side is not of any consequence, particularly when the assembly of the Nihangs there showed a determination not to disperse.

Firing was ordered after due warning.

I find that the order for firing was given by the Deputy Commissioner after he had issued warning to the Nihangs who were rushing out from the northern door (*darshani darwaza*) and western door of the Darbar Hall.

The questions which remain to be considered are—

- (1) whether the firing was justified, and
- (2) whether minimum force was used, regard being had

to the particular situation created by the Nihangs at that time.

The Nihangs constituted an unlawful assembly in front of the northern door and another unlawful assembly in front of the western door of Darbar Hall at the time they came out to launch two separate attacks on the police personnel. Sections 127 and 128 of the Code of Criminal Procedure provide how unlawful assemblies are to be dealt with by Magistrates or police officers. According to section 127 of the Code of Criminal Procedure

“any magistrate or officer in charge of a police station may command any unlawful assembly, or an assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly”.

Section 128 of the Code of Criminal Procedure lays down that “If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any magistrate or officer in charge of a police station, whether within or without the presidency towns, may proceed to disperse such an assembly by force.....and acting as such, for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who formed part of it, in order to disperse such an assembly or that they may be punished according to law.”

The Punjab Police Rules, as applied to Himachal Pradesh, contain instructions regarding the use of force by the police against crowds. Rule 56, Chapter 14, of the Punjab Police Rules, Vol. II, emphasises that the use of force is regulated by the aforesaid provisions of the Criminal Procedure Code. It is further mentioned that

“the main principle to be observed is that the degree of force employed shall be regulated according to the circumstances of each case”.

Again, it provides—

“The object of the use of force is to quell a disturbance of the peace, or to disperse an assembly which threatens such disturbance and has either refused to disperse or shows a determination not to disperse”.

It is further mentioned that

“One an order to disperse has been defied, or when the attitude of a crowd is obviously defiant, force shall be used without hesitation. The degree of force used shall be the minimum which the responsible officer, with the exercise of due care and attention, decides to be necessary for the effective dispersal of the crowd and the making of such arrests as may be desired. The degree and duration of the use of force shall be limited as much as possible, and the least deadly weapons which the circumstances permit shall be used”.

The rules further provide that

“Whatever volume of fire is ordered, it shall be applied with

the maximum of effect; the aim shall be kept low and directed at the most threatening parts of the crowd; in no circumstances shall firing over the heads of or at the fringes of the crowd be allowed".

The rules also provide as follows:—

"If the use of firearms cannot be avoided, firing should be carried out from a distance sufficient to obviate the risk of the force being rushed and to enable strict fire control to be maintained".

Briefly stated, the situation in which the firing was ordered was as follows. The Nihangs were armed with lethal weapons, such as swords and spears. They had been aggressive from the time the police had arrived in front of the Gurdwara and till the stage of the firing they had already injured 26 constables, four of whom had received quite serious injuries. After Darshan Singh had communicated to the Nihangs the message of the Jathedar that they should either kill or be killed but should not deliver possession over the Gurdwara to the Receiver, they started beating drums and raising slogans. The armed Nihangs when they came out of the doors of Darbar Sahib were in the circumstances expected to pounce upon the police personnel and to engage them in a deadly fight.

The number of the constables employed in the operation was not very large. It has come in evidence that about 65 to 75 constables were employed in the operation, out of whom 4 had already been seriously injured and sent to the hospital. They must have been accompanied by two other constables. Six constables and two head constables had been provided with muskets. The remaining 50 to 60 constables must have remained posted on all the four sides of Darbar Sahib when the Nihangs suddenly came out through the front door and one of the doors on the Langar side. There could have been 15 to 20 constables, some of whom were armed with lathis, on the front side and an equal number of similarly armed constables on the Langar side.

The Nihangs had come out all of a sudden through the front door of Darbar Sahib and the western door on the Langar side. Thus they took everybody by surprise. In the circumstances, if the order of firing had not been given the Nihangs and the constables (some of whom were armed with lathis only and the others were unarmed) must have become engaged in a fight resulting in very serious injuries to police personnel and the loss of several lives on both the sides.

In the circumstances stated above the Deputy Commissioner could have no option but to direct firing; otherwise the Nihangs could have had the advantage of a sudden attack and with the weapons which they had with them they could cause very serious injuries to the members of the police force, which was not so well-armed. The Nihangs had to be checked from proceeding further so that they could not reach the police constables, who were not so well-armed as the Nihangs.

The order of firing given by the Deputy Commissioner who was present was, therefore, justified.



It was contended by Sri B. S. Chawla, learned counsel for the S.G.P.C., that the firing should not have been ordered because certain other courses were open to the Deputy Commissioner. According to him, the Deputy Commissioner could have

- (a) cordoned the Nihangs;
- (b) withdrawn from the Gurdwara; he could have given police help a few days later after provision for tear gas had been made; or
- (c) ordered a lathi charge.

In my opinion there is no force in any of these contentions. The Nihangs had closed the doors of Darbar Sahib and the police force had surrounded the Darbar Hall. Doors and windows of Darbar Sahib had to be forced open because of the incident of Baldeo Singh. The police force continued to be all round the Gurdwara but the Nihangs themselves did not allow that situation to continue and rushed towards the police personnel from two sides, i.e., from the front side and the western side. After that sudden attack had been made by the Nihangs it could not have been advisable to order the police constables to beat them with lathis, because that could have resulted in a hand-to-hand fight in which several persons might have lost their lives and more persons might have been seriously injured.

In the circumstances stated above, there could be no question of withdrawal from the scene after the Nihangs had suddenly come outside to attack the police personnel.

Another argument advanced by Sri B. S. Chawla was that the firing could not be justified on the Langar side because none of the Nihangs on that side had carried any gun and the unlawful assembly consisted of only 7 or 8 Nihangs. This argument has no force, because

- (a) the Government servants did not know the exact number of Nihangs inside Darbar Sahib and could not be sure that after 7 or 8 Nihangs had got down the staircase other Nihangs will not follow, and
- (b) even 7 or 8 Nihangs armed with such deadly weapons and in such a desperate mood were capable of causing very serious injuries to police personnel.

The order of firing, in the circumstances of the case, was fully justified.

Firing fully  
Justified.

Next I proceed to determine the quantum of force used by the police at the time of the incident. Nothing could be said against the quantum of force used by the police at or near the *chobara* on the roof and at the time of their arrest after the firing was over. Five of the Nihangs received minor injuries at the time of the *chobara* incident. A few more Nihangs were injured at the time they tried to resist their arrest after the firing was over. It is clear from the testimony of Nihang witnesses themselves that Karaka Singh (witness No. 29) and Pritam Singh had resisted arrest and engaged themselves in a scuffle with a large number of police constables, at the time they tried to arrest them. The quantum of force used by the police constables on both the occasions appears to be the minimum.

The main question that has, therefore, to be considered is whether the quantum of force used at the time of firing was the minimum needed under the circumstances of the case. It is clear from the statements made by the Government servants, who were present at the time of firing, that only ten rounds on the front side in three separate volleys and eight rounds on the Langar side in two volleys were fired. As a result of the firing three persons died (vide my findings recorded under clause (d) of the Reference) and three more received bullet injuries. Some of the injured or dead received only one bullet injury. According to the statements made by the Government servants, the firing stopped as soon as the Nihangs started running away.

I see no reason to doubt the statement made by the Government servants, particularly the Deputy Commissioner and the Superintendent of Police, that the firing was stopped as soon as the Nihangs had started running away. It is quite natural.

It has been pointed out by Sri B. S. Chawla, learned counsel for the S.G.P.C., that inasmuch as at least two of the Nihangs, namely Nihal Singh and Nihang No. 3, had received bullet injuries on the back parts of their bodies, the firing must have been continued even after the Nihangs had started running away. In my opinion the statement made by the Government servants need not, however, be discarded merely because of this circumstance, because it is possible that in the split-second while the second volley was about to be fired, two of the Nihangs might have turned round before running away and thus might have received injuries on the back parts of their bodies. The mere turning round by two out of several Nihangs just at the moment the second volley was about to be fired could not indicate that at the time the second volley was fired the Nihangs had already started running away. In this connection it is significant to note that the injury to Nihal Singh on the back of his thigh, according to the medical evidence, must have been caused while he was still on the staircase, i.e., on a higher level than the ground on which the firing squad was stationed.

Two out of the three Nihangs, who had died, had succumbed to their injuries at the spot, one on the Langar side and one on the front side. The Nihang, who had died at the spot on the front side, was the same person who was armed with a gun and had fired it on coming out of the northern door of Darbar Sahib. One more Nihang fell down injured near the staircase leading to the northern door of Darbar Sahib and succumbed to his injuries after reaching the hospital.

It is clear from the testimony of the Government servants, and has not been disputed by the Nihangs, that immediately after the occurrence the Nihangs who were injured were taken to Paonta Hospital and given the necessary medical aid. The Nihangs, who had received bullet injuries, had reached the hospital by 4.30 p.m. (vide injury reports Exs. A-47, A-62 and A-63).

Quantum  
of force  
used not

After having given my anxious consideration to all the facts and circumstances of the case I have no hesitation in accepting

the version placed before me by the Government servants and excessive. hold that the quantum of force applied was not excessive.

### Clause (d) of the Reference

The main controversy under this clause is about the number of persons who died as a result of the police firing in the Gurdwara premises on 22nd May, 1964. According to the official version, only three Nihangs died as a result of the police firing and their dead bodies were handed over to the local Sikhs after the post-mortem examination had been done. The learned counsel for the Nihangs and the S.G.P.C. have not disputed before me that three dead bodies of the Nihangs had been handed over to the local Sikhs after post-mortem examination on 23rd May, 1964. Their contention, however, was that five more Nihangs and three pilgrims had died as a result of the police firing and their dead bodies had been secretly removed by the Government servants and burnt. The suggestion made by the learned counsel for the S.G.P.C. to Mahant Gurdial Singh (witness No. 5) during the course of his cross-examination was that the eight dead bodies were removed in a police truck whose registered number was HIM 1414, that Nizamuddin was the driver of that truck, that a Sikh driver of Sri Chandel, Deputy Commissioner, had accompanied the driver to a place in the jungle of village Banethi where all the dead bodies were cremated and as a result of that the trees in the jungle had caught fire. It was also suggested to the Mahant that he too had travelled in the same truck in which the dead bodies were carried to the jungle of village Banethi. Mahant Gurdial Singh stated that none of the suggestions made to him was correct. No effort was made by the S.G.P.C. to follow up any of the suggestions made to Mahant Gurdial Singh and to establish the facts contained therein. An application was, however, made to the Commission on 17th December, 1964 (Paper No. B-13) that the site where the dead bodies were alleged to have been cremated should be inspected. It was mentioned in that application that the distance of village Banethi from Nahan was about 12 to 14 miles only. It appears that the alleged place of cremation mentioned in the first application was not correctly described. Another application (Paper No. B-15) was, therefore, made on 21st December, 1964, in which it was mentioned that the place of cremation was near the junction of Chandigarh-Simla road about a furlong to the right side of the junction near the Lwasa Forest Post. The application was granted and I, accompanied by the counsel for the parties, inspected that site on 21st December, 1964. After having motored for a little over 20 miles on Nahan-Simla road, we reached a place where another road branches off towards Chandigarh. We were taken down a ravine over a narrow beaten path after going round a small hill to a place at a distance of about 300 yards from the road. The place of cremation pointed out was on the right bank of the *nala* towards which two hills on either side sloped. There was no water at that time in that *nala* but the condition of its bed indicated that plenty of water must have flown through it during rainy season. The alleged place of cremation, where small particles of charcoal and burnt

cinders could be seen in an area of 6' x 4', was almost inside that *nala* on its right bank and hardly about eight inches to one foot above the level of the bed of that *nala*. The police firing had taken place in the month of May and the inspection was made in the month of December the same year. The remnants of charcoal and burnt cinders could not have remained there after the rush of water through that *nala* during the rainy season that followed. The probability that someone had burnt wood there to prepare charcoal sometime after the rainy season could not be excluded. Nothing could be pointed out from which it could be inferred that a few dead bodies must have been cremated there in the month of May, 1964.

The firing had taken place inside the precincts of Gurdwara Paonta Sahib which is bounded by high walls on three sides, i.e., north, south and west. River Jamuna flows on the southern side. It has come in evidence that only (i) Government servants, (ii) two members of the public, namely, Siri Ram Zakhmi and Ishwar Chand Goel, and (iii) the Nihangs were present inside Gurdwara Sahib at the time of the occurrence. Some residents of Paonta had also assembled at a distance of more than 100 yards from Gurdwara Sahib on the other side of the road. They could not have seen what was happening inside the Gurdwara and no one from amongst them has been examined to prove the number of the dead bodies carried away from the Gurdwara after the police firing was over.

The statement made by the Government servants and also by Siri Ram Zakhmi and Ishwar Chand Geol is that only three Nihangs died as a result of the police firing. On the other hand, five witnesses of the Nihangs and S.G.P.C., namely, Nihal Singh Granthi (witness No. 1), Gurbachan Singh son of Ram Krishan (witness No. 4), Ajit Singh (witness No. 8), Karaka Singh (witness No. 29) and Srimati Niranjan Kaur (witness No. 34) stated that the number of the dead was far in excess of the number admitted by the Government servants.

The Nihangs and the S.G.P.C. examined five more witnesses, namely, Puran Singh (witness No. 31), Gurdial Singh (witness No. 32), Srimati Swaran Kaur (witness No. 36), Bishan Singh (witness No. 37) and Jhanda Singh (witness No. 44) to prove that they came to know as a result of enquiries made that their relations (specifically named by each witness) had also died as a result of the police firing at Paonta on 22nd May, 1964.

I first proceed to examine the evidence given by the Nihang witnesses, who claimed to be eye-witnesses of the occurrence. The first such witness is Nihal Singh Granthi (witness No. 1). He gave the names of eight persons, who died as a result of the police firing on 22nd May, 1964, and stated that three more had died whom he described as a *dhoopia*, a pilgrim and a *subedar*. He stated that he had himself seen them falling down dead.

Nihal Singh (witness No. 1) is a thoroughly unreliable witness. He claims to be an eye-witness of the fact that eleven persons had died as a result of the police firing. However, when he was examined by the Tahsildar on 23rd May, 1964, he made no

such statement. A perusal of his statement (Ex. A-1) made before the Tahsildar shows that Nihal Singh had told the Tahsildar that he lost consciousness while the bullets were being fired and could not tell what had happened thereafter.

Two gists of his statement were filed—one by Sri B. S. Chawla on behalf of the S.G.P.C. (Sant Fateh Singh Group) and the other by Sri Bahadur Singh on behalf of Akali Dal (Master Tara Singh Group). In the gist of statement filed by Sri Bahadur Singh it was mentioned that this witness had seen only two persons, namely, Dhanna Singh and Udey Singh, dying as a result of police firing. In the other gist of this very witness filed by Sri B. S. Chawla, it was mentioned that Nihal Singh had seen five or six persons falling dead in the Darbar Sahib itself. It was further mentioned in that gist that after he had recovered somewhat and returned to Paonta, he learnt that as many as 11 persons had died. The witness was released from jail sometimes towards the end of July, 1964.

The witness was asked to explain why such statements appeared in his earlier statement made before the Tahsildar and the gists filed by the counsel. He could give no explanation to this. There can be no doubt that the witness did not see more than three persons falling dead and has materially changed his statement in his attempt to prove a contention for which no evidence was available.

Jathedar Harbhajan Singh (witness No. 2) was not inside Gurdwara Sahib at the time the firing took place. Three or four days after the firing he met other Nihangs, who had been arrested at the time of the firing and had been sent to jail, out of whom one was Karaka Singh (witness No. 29). Jathedar Harbhajan Singh stated that only Karaka Singh and Darshan Singh had told him inside the jail about the occurrence and that no other Nihang told him about the occurrence there. He further stated as follows:—

“Karaka Singh and Darshan Singh did not tell me the names of the eleven persons who had died at the time they met me in jail 3 or 4 days after the occurrence. But they did tell me that 11 persons had died as a result of the firing. The other Nihangs who met me in jail did not tell me anything about the occurrence.”

It was only after his return from jail that Parman Singh had shown to him a writing Ex. A-3 in which the names or description of the 11 Nihangs, who are alleged to have died as a result of the firing, were mentioned.

It is significant to note that Jathedar Harbhajan Singh could name only five out of the eleven Nihangs, who are said to have died as a result of the firing.

From the statement of Jathedar Harbhajan Singh it is clear that at the time of the firing most of the Nihangs, who had been arrested or removed from the scene of occurrence, could not know full details of the occurrence. That must be the reason why most of them kept silent and even Karaka Singh could not tell the names of the dead Nihangs to Jathedar Harbhajan Singh.

Karaka Singh (witness No. 29) when examined before the Commission on January 18, 1965, named nine persons who had died as a result of the firing. He included the name of Nihal Singh (witness No. 1) also amongst the dead. However, on the next day when his examination was continued he stated that he had committed a mistake and that Nihal Singh did not die as a result of the police firing. When cross-examined, Karaka Singh (witness No. 29), stated:—

“Some leaders and Shri Mehgowalia had gone to see me in jail. I did not tell them the names of the Nihang Sikhs who had died as a result of the police firing. I did not tell them how many Nihang Sikhs had died as a result of the police firing. Neither the leaders nor Shri Mehgowalia, Advocate, had asked me about the facts of the incident.”

In the gist of the statement of the witness filed by Sri B. S. Chawla it was mentioned as follows:—

“I saw a number of persons falling down as a result of the bullet wounds..... When we came out of the Nahan jail after more than two months of our arrest we caused thorough enquiries to be made and we learnt that as many as 11 persons had died as a result of the police firing. I had seen only 7 or 8 persons falling dead with my own eyes.”

Karaka Singh is also an unreliable witness. He appears to have substantially changed his statement. His cross-examination made before the Commission revealed that in all probability this witness did not come to know about the names of the dead persons at the time of the occurrence and that he gathered that information only after his return from jail more than two months after the firing. No reliance can be placed on his statement.

Gurbachan Singh (witness No. 4) stated before the Commission that he had seen 11 dead bodies being placed in one truck. When cross-examined the witness stated as follows:—

“No counsel ever made any enquiry from me and I did not give my statement to any counsel. I am stating for the first time today about the occurrence of the firing. I had not made this statement to anyone before this date”.

The witness had received serious bullet injuries and it is extremely doubtful that after the incident he had cared to notice the number of the dead persons. It must have been for that reason that he did not tell anybody about the occurrence and he stated about it for the first time before the Commission. He also appears to be a got-up witness.

Ajit Singh (witness No. 8) deposed before the Commission that 8 or 9 persons, whose names he did not know, had died as a result of the police firing.

The witness is a young lad of 18 years. According to his own statement he had become very much afraid at the time the firing had taken place. He says that he was trying to conceal himself at the time he received the bullet injury. He had received a very serious injury and is still lying in the hospital. In the circumstances it is rather strange that the witness had been able to see with his own eyes how many persons had died as a result of the police firing.



It is, no doubt, true that the statement made by him before the Commission tallies with the gist of statement filed by the counsel. However, the cross-examination of Ajit Singh (witness No. 8) shows that he did not tell his counsel anything about the happenings of 22nd May, 1964. He says that he could not talk to them because the doctors did not allow them to talk to him. He further says that the counsel merely told him that they would produce him as a witness. In the circumstances it is difficult to understand how any gist of his statement could at all be filed.

It was further contended by Sri B. S. Chawla, learned counsel for the S.G.P.C., that Ajit Singh should be believed because he is a student and is not a Nihang. The witness, no doubt, stated that he is not a Nihang. He admitted that he had been brought up by his maternal-grandfather. When asked whether his maternal-grandfather was a Nihang, he made the following statement:—

“I do not know whether my maternal grandparents were Nihangs and my maternal-grandfather had taken Amrit from Jathedar Harbhajan Singh or not. It is not a fact that my maternal grandfather mostly lives in the Gurdwara Hariambela. He does not stay at one place. He mostly keeps moving about. Sometimes he is at one Gurdwara, sometimes at another.”

The witness did not admit that his maternal grandfather is a Nihang but the way in which he described his maternal grandfather and his movements clearly reveals that he must be a Nihang.

The witness has, no doubt, passed his Higher Secondary Examination in the year 1964, but that fact by itself will not show that he cannot speak a lie.

Ajit Singh too appears to be a got-up witness.

Srimati Niranjana Kaur (witness No. 34) stated that at the time of the firing she remained sitting near Nishan Sahib towards the north-east of Darbar Hall and after the firing had taken place she could see 10 or 11 Nihangs bleeding from the injuries and brought out of Darbar Hall. Three dead bodies were cremated on the banks of river Jamuna. The witness stated that when she went near the river Jamuna at the time of cremation she heard persons saying that out of the three dead bodies one was that of a Subedar. When cross-examined, the witness stated that she had seen four or five dead or injured being placed in a truck at the time she had moved away from near Nishan Sahib where she had been sitting. She further stated that some of the injured and dead persons were still lying on the ground when five or six injured and dead were placed inside the truck.

The statement made by Srimati Niranjana Kaur differs from that of other Nihang witnesses in one material particular. According to the other Nihang witnesses the dead bodies were placed in one truck while the injured had been accommodated in another.

The presence of Srimati Niranjana Kaur (witness No. 34) at the time of the firing is extremely doubtful. The policemen had remained inside Gurdwara premises for more than two hours before the firing took place and during all that time Srimati

Niranjan Kaur could not have remained sitting near Nishan Sahib. Again, according to the statement made by the witness, she was taken to the police station immediately after the firing had taken place and was kept there for two days. However, according to the statement made by the Government servants, she had not at all been arrested.

In case Gurbachan Singh (witness No. 9), examined by the S.G.P.C., is believed, Srimati Niranjan Kaur had been arrested and taken to the police station much before the firing had started. Gurbachan Singh had stated that the firing had taken place sometimes after he had reached the police station. He further deposed as follows:—

“That woman had been brought to the police station 15 or 20 minutes after I had been taken to the police station. The sound of the gunfire was heard much after that woman had been brought to the police station.....Ajit Singh is the name of her grandson.”

The presence of Srimati Niranjan Kaur at the time of the firing is extremely doubtful and I am not prepared to place any reliance on her statement.

The three dead Nihangs who, according to the official version, had died as a result of the police firing could not be identified till they were cremated. Their photographs were, however, taken. Jathedar Harbhajan Singh was shown the photographs of the three Nihangs, who according to the official version had died as a result of the police firing. Strange as it might appear, he could not identify any of those three Nihangs. Sardar Sampuran Singh (witness No. 43), a member of the Action Committee formed on 7th June, 1964, to do proper *pairvi* before the Commission of Enquiry, is a resident of Dehra Dun. He learnt about the firing inside Gurdwara Paonta Sahib on 23rd May, 1964, and immediately rushed to Paonta Sahib on his scooter. According to this witness he learnt from Kartar Singh Kohli and certain ladies, whose names he did not remember, on that very day, i.e., on 23rd May, 1964, that eleven Nihangs had died as a result of the police firing. Sardar Sampuran Singh further stated that it was on the basis of the information collected by him that he submitted a memorandum to Pandit Jawahar Lal Nehru (copy Ex. A-106) in which he mentioned that 11 persons had died as a result of police firing. Kartar Singh and the ladies, from whom Sampuran Singh collected that information, were not examined.

The Jathedar stated that after his release from jail he made thorough enquiries as a result of which he learnt that 11 persons had died as a result of the police firing. None of the persons from whom he claimed to have made that enquiry was examined.

It appears that Sampuran Singh (witness No. 43), a member of the Action Committee, placed reliance on the rumour which he heard on the 23rd May, 1964, at Paonta that many persons had died as a result of the police firing without making any proper scrutiny. That information seems to have been passed on to Jathedar Harbhajan Singh and other Nihang witnesses either before or after they had been released from jail.

It is difficult to understand how at a place where no one could identify the three dead Nihangs, whose bodies were cremated on the banks of the Jamuna, quite close to the Gurdwara, in the presence of hundreds of people, certain persons, who had seen nothing, could say that eight more persons had died as a result of the police firing. Rumours, which generally have no basis, get afloat after such incidents and it seems that Sampuran Singh, a member of the Action Committee, somehow, without any proper scrutiny, put his faith in that rumour and passed on that information to others.

The fact that several rumours were spread in Paonta immediately after the firing is clear from the following statement of Santa Singh (witness No. 22):—

“Several rumours regarding the incident in the Gurdwara were spread in the town after the firing.”

Some of the residents of Paonta including Santa Singh (witness No. 22) had made an application (Ex. A-18) to the Deputy Commissioner on 23rd May, 1964. The case of the Government servants was that the facts alleged in that application were based on those rumours. Santa Singh was cross-examined on that point and he stated as below:—

“The application, Ex. A-18, was not based on rumours. However, all the demands made by the people collected there were incorporated in that application”.

It is significant to note that there is no mention in that application that eleven persons had died as a result of the police firing. However, one of the demands of the public made in that application was that the number of Nihangs, who had lost their lives as a result of the police firing, should be revealed and their dead bodies should be got identified so that their relations could be informed. The Deputy Commissioner handed over the bodies of three dead Nihangs to the Sikhs at Paonta and no further protest was made to him.

The only other evidence led before the Commission by the S.G.P.C. to prove the death of more than three Nihangs consists of the statement made by Puran Singh (witness No. 31), Gurdial Singh (witness No. 32), Srimati Swarn Kaur (witness No. 35), Bishan Singh (witness No. 37) and Jhanda Singh (witness No. 44). Karaka Singh (witness No. 29) gave the names of the three Nihangs whose dead bodies had been photographed by the police. After the Jathedar had failed to identify the photographs of the dead Nihangs, much reliance cannot be placed on the identification of Karaka Singh alone. The relations of five Nihangs, alleged to be dead, were examined to prove that they had not been heard of after the firing at Paonta and they are believed to be dead. Srimati Swarn Kaur (witness No. 36), wife of Mangal Singh, however, refused to state that her husband Mangal Singh was dead.

Puran Singh (witness No. 31) stated that he learnt from others that one of his brothers, Pritam Singh, aged about 25 years, had died as a result of the police firing at Paonta. He stated that Pritam Singh had become a Nihang about 6 or 7 years ago.

Gurdial Singh (witness No. 32) deposed that his younger brother, Dhanna Singh, had also died as a result of the police firing at Paonta. He stated that he was told by Bishan Singh, Naib Jathedar of Tarna Dal, that his brother Dhanna Singh was dead.

Bishan Singh (witness No. 37) stated that his son Udey Singh, aged 22 or 23 years, who was a Nihang, had died as a result of the police firing. When cross-examined, he stated that he went to Paonta Sahib 20 days after the firing and it was there that he learnt for the first time that his son had died as a result of the police firing.

The last witness examined on this point was Jhanda Singh (witness No. 44). He stated that his brother, Santokh Singh, had died as a result of the police firing and that he learnt that fact as a result of enquiry.

All that these five witnesses could state was that their relations had not returned to the place where they lived at any time after the 22nd May, 1964. The persons who are alleged to be missing were Nihangs, who keep on roaming about. Therefore, the circumstance that none of the five persons named by the witnesses had gone to the village of his residence after the date of the firing will not necessarily show that they are dead or that they died as a result of the police firing at Paonta.

There is clear and consistent statement of the witnesses for Government servants that only three Nihangs had lost their lives as a result of the police firing on 22nd May, 1964. After taking all the facts and circumstances into consideration I have no hesitation in relying on their statements.

I find that only three Nihangs had lost their lives as a result of the police firing at Paonta.

The number of the injured as a result of the police firing is not disputed and was three. The names of the injured are Ajit Singh, Gurbachan Singh son of Ram Krishan and Nihal Singh.

As mentioned earlier in my report, five Nihangs were injured and received minor injuries at the time of their arrest from the *chobara* and six more Nihangs were injured at the time when the scuffle took place and the Nihangs were arrested after the firing. Except in the case of Pritam Singh Nihang, whose right forearm was fractured, the remaining ten Nihangs received only simple hurt.

Twentysix constables received injuries during the course of the incident in the manner detailed in my report.

For the sake of convenience I have mentioned in Appendix 'A' the names of all the persons (Nihangs or police constables) injured and the nature of injuries sustained by them.

Under this clause of terms of Reference I have also to determine the damage caused to any property belonging to Shri Gurdwara Paonta Sahib. I might mention at the very outset that from the evidence led before me it is clear that no property of the Gurdwara was damaged merely for the sake of causing damage to Gurdwara property. The following damage

was caused to the building of the *chobara* on the roof when the police constables broke open its doors in order to arrest six of the Nihangs, who had constituted themselves into an unlawful assembly:—

- (1) The door for entry from the roof broken with splinters of wood lying on the ground.
- (2) A portion of middle western wall of that room was broken. The glass-panes of the eastern door and the window were also broken.

The following damage was done to the Darbar Sahib building by the police constables under the orders of the Deputy Commissioner in order to rescue Baldeo Singh constable who had been dragged in by the Nihangs inside Darbar Sahib and was shouting from there “*mar dia; mar dia*” (I am being killed; I am being killed):—

- (1) Both the leaves of the northern door of Darbar Sahib were broken.
- (2) A window in the eastern wall of Darbar Sahib was damaged, its wooden portion having been broken off.
- (3) There were marks of blows on the two leaves of the window on the western wall near the southern corner. One panel on the lower leaf was entirely broken off.

There was no major damage to the other doors and windows some of which were apparently forced open after the bolts had given way.

No other damage to the Gurdwara building was pointed out at the time of the inspection.

Some of the Nihang witnesses stated that the durries, which were spread inside Darbar Sahib, had blood-stains on them. It was, therefore, contended by the learned counsel for the S.G.P.C. that those durries must have been removed and burnt by the Government servants. In view of my findings that the firing did not take place inside Darbar Sahib, no reliance can be placed on the statements of the Nihang witnesses that blood had fallen on some of the durries. No question of their having been removed or burnt, therefore, arises.

### Clause (c) of the Reference

According to the statements made by Nihal Singh (witness No. 1), Gurbachan Singh son of Ram Krishan (witness No. 4), Ajit Singh (witness No. 8), Karaka Singh (witness No. 29), Srimati Niranjan Kaur (witness No. 34) and Sunder Singh (witness No. 38) for the Nihangs and the S.G.P.C. the following acts of sacrilege were committed by the police constables inside Gurdwara Paonta Sahib on 22nd May, 1964:—

- (1) They interrupted the Akhand Path which was going on inside Darbar Sahib.
- (2) They broke open the doors and windows of Darbar Sahib.
- (3) The Nihang Sikhs and other pilgrims, who were busy in devotion inside Darbar Sahib, were fired at.

- (4) The Granthi, who was reciting Akhand Path, was shot dead. He fell down on the *Beer* of Granth Sahib which was besmeared with blood.
- (5) After the firing was over the police constables went inside Darbar Sahib with leather boots and belts on.

I proceed to discuss each act of alleged sacrilege separately.

It has been contended by Sri Shrawandeo, learned counsel for Government servants, that the facts and circumstances are such from which it will have to be inferred that no Akhand Path was going on inside Darbar Sahib at the time of the incident and the story of the Akhand Path must have been circulated merely to excite public resentment. The circumstances relied upon by him are:—

- (1) In their statements made by Nihal Singh (Ex. A-1) and Gurbachan Singh (Ex. A-11) son of Ram Krishan, before the Tahsildar on 23rd May, 1964, they made no mention of any Akhand Path. It was pointed out that in the case of both these witnesses it had to be treated as an important omission made by them in their statement recorded just after the incident. Nihal Singh in his statement (Ex. A-1) had given some other reason why he had closed the door of Darbar Sahib on the arrival of the police.
- (2) Two local Sikhs, namely, Santa Singh (witness No. 35) and Bachittar Singh (witness No. 23) were examined as witnesses before the Commission. None of them stated that any Akhand Path was going on inside Darbar Sahib at the time of the incident.
- (3) A big religious Diwan was held at Paonta on Baba Ajit Singh Day (4th May, 1964). Posters (copy Ex. A-2) were circulated by the Nihangs for that occasion. The distribution of the posters (Ex. A-2) under the authority of the Nihangs was not disputed by Jathedar Harbhajan Singh. It was mentioned in that poster that the expenses on one Akhand Path (which is concluded in two days) roughly comes to Rs. 230/-. It was also mentioned in that poster:—

*“Akhand Path di lari kafi samey to shuru hai. Is lari da bhog Baba Ajit Singh ji Maharaj de janum samey paiya jawega. Jarey sajjan Akhand Path di sewa kurna chanhde hun oh sajjan chithhi dak rahi gul bat kar sakdey hun.....Akhand Sahib di bheta 230 rupai rukhi gai hai. Asi dak rahi har Akhand Path karaney wale sajjan no sara be-rwa likh ke bhej sukde hain. Aage kisi sajjan di marzi apni sardha anusar rupai bhej ke Akhand Path kara sakda hai”.*

#### Translation in English

“The series of Akhand Paths (non-stop recitations of Guru Granth Sahib) has been in progress for a considerable time. The *bhog* of this series will be solemnised at the time of the anniversary of the birth



of Baba Ajit Singh ji Maharaj. Persons interested in the *sewa* of Akhand Paths can communicate by post. The subscription for one Akhand Path has been fixed at Rs. 230/-. We can supply by post detailed information to persons desirous of getting Akhand Path recited. Any person, so inclined, can get Akhand Path recited on sending the money according to his '*shraddha*' (devotion)".

It is rightly contended by Sri Shrawandeo, learned counsel for the Government servants, that from what had been mentioned in the poster it is clear that the series of the Akhand Paths, which had been started earlier, was to be completed on Baba Ajit Singh Day (4th May, 1964) and, thereafter, it was open to the members of the Sikh community to contribute Rs. 230/- for each Akhand Path and to get the same recited. There is no evidence on record to show that any of the Sikhs had deposited Rs. 230/- with the Nihangs for the recitation of any Akhand Path after the issue of the poster (Ex. A-2). Besides the interval between Baba Ajit Singh Day and the date of firing was 18 days.

Jathedar Harbhajan Singh (witness No. 2) was cross-examined on this point. He denied the suggestion made to him that on 22nd May, 1964, no Akhand Path was being recited inside Gurdwara Paonta Sahib. He, however, made the following statement:—

"A Bhog was solemnised on the day of the birth anniversary of Baba Ajit Singh. It was solemnised at about 9 a.m. on that day. An Akhand Path has to be finished in 48 hours but sometimes when the reciter is somewhat lazy it takes about half an hour more. Our Pathis always do the work of reciting Paths. On the date of the firing the same series of Akhand Path was going on, the Bhog ceremony of which was solemnised".

A Bhog has to be solemnised after the completion of each Akhand Path. It was, therefore, contended by Sri B. S. Chawla, learned counsel for the S.G.P.C., that the assertion made in the poster (Ex. A-2) that the Bhog of the series of Akhand Path was to be solemnised on Baba Ajit Singh Day (4th May, 1964) is meaningless. In my opinion there is no force in this contention. When several Akhand Paths are being performed in a series one after the other, bigger Bhog can always be performed after any particular series of Akhand Path has ended. In my opinion the Nihangs had clearly indicated in the poster (Ex. A-2) that the series of Akhand Path, which had started earlier, was to be completed on Baba Ajit Singh Day (4th May, 1964) and thereafter individual Akhand Paths could be performed if people were agreeable to subscribe to the cost thereof. There is, however, nothing on record to show that any Sikh had given any subscription for the performance of the Akhand Path thereafter.

Other circumstances relied upon by the learned counsel for the Government servants in support of his contention that no Akhand Path was being recited on 22nd May, 1964, at the time

of the occurrence are:—

- (1) It has come in evidence and is not disputed that other Nihangs arrived in Gurdwara Paonta Sahib a few days after the firing and from that time onwards the Nihangs are virtually controlling all the religious ceremonies performed inside the Gurdwara. No evidence on behalf of the S.G.P.C. and the Nihangs has been led before the Commission that at any time after 22nd May, 1964, the Akhand Paths which had been interrupted were restarted. It has to be remembered that the claim of Jathedar was that in the very beginning it had been resolved that 101 Akhand Paths would be performed.
- (2) In case Akhand Paths were being performed on 22nd May, 1964, the local Sikhs ought to have known about it. However, no local Sikh was examined to prove that Akhand Path was being recited on 22nd May, 1964.

In this connection my attention was invited to the memorandum (Ex. A-18) which was submitted by the local Sikhs to the Deputy Commissioner on 23rd May, 1964, in which it was mentioned that one Granthi had been shot dead while he was performing Akhand Path. The recitals made in the memorandum (Ex. A-18) cannot be the primary evidence of the fact that Akhand Path was being recited inside Gurdwara Paonta Sahib on 22nd May, 1964. In case any of the signatories of that application had personal knowledge of that fact he ought to have been examined as a witness.

After the incident of the firing two Beers of Granth Sahib were found at two places on the marble platform inside Darbar Sahib. Santa Singh (witness No. 22), who went to Darbar Sahib at about 8.30 p.m. to get the rituals of that evening performed, saw that two Beers of Granth Sahib were kept there. One of them was closed and the other was lying open. Both the Beers were taken inside Harmandir Sahib and kept there to rest, as is an usual practice in Gurdwaras. The presence of one open Granth Sahib inside Darbar Sahib at 8.30 p.m. on 22nd May, 1964, could not establish that Akhand Path was being recited. It was stated by Jathedar Harbhajan Singh that  
 “My *pathis* always do the work of reciting Paths”.

The recitation of Paths must, therefore, be an usual practice inside a Gurdwara. It was, therefore, not at all strange that one of the Granth Sahibs was lying open at the time of the occurrence.

The Government servants had no knowledge that any Path was being recited inside Darbar Sahib at the time of the occurrence. They had, therefore, nothing to say on that point. However, the various circumstances relied upon by Sri Shrawandeo, learned counsel for the Government servants, clearly indicate that in all probability no Akhand Path was being recited inside Darbar Sahib on 22nd May, 1964, at the time of the incident.

I have already held, while discussing clause (b) of the Reference that the two firing squads had fired from some distance at two parties of armed Nihangs, who had come out of the northern and western doors of Darbar Sahib and that they did not go to the platform to kill the Nihangs inside Darbar Sahib. It is clear from my findings that no Granthi was shot dead while reciting Path. No Nihang was shot dead inside Darbar Sahib and no Granth Sahib got besmeared with blood. Both these alleged acts of sacrilege stand unsubstantiated.

The police constables did break open the doors and windows of Darbar Sahib under the orders of the Deputy Commissioner, as has been held by me in the earlier part of this report. However, the doors and windows were not broken open to commit any act of sacrilege. That was done merely to save the life of a constable, namely, Baldeo Singh, who had been dragged inside Darbar Sahib and whose life appeared to be in danger.

The only other alleged act of sacrilege was that the police constables had, after the firing was over, entered Darbar Sahib with leather belts and boots on. Nihal Singh (witness No. 1), Gurbachan Singh son of Ram Krishan (witness No. 4), Ajit Singh (witness No. 8), Karaka Singh (witness No. 29), Srimati Niranjana Kaur (witness No. 34) and Sundar Singh (witness No. 38) have supported the case set up by the Nihangs and the S.G.P.C. on that point. On the other hand the version of the Government servants is that definite instructions had been given to all the constables not to have their leather belts and boots with them at the time of their duty inside the Gurdwara. Sri N. K. Singhal, Superintendent of Police, has stated that these were his instructions conveyed to all his officers. D.I. Sri Daulat Ram and S.I. Sri Kapur Chand, S.H.O., have deposed that they had accordingly given definite instructions to all the police constables not to have leather belts and boots on at the time they had to go inside Gurdwara premises in connection with their duties.

There is one very important circumstance to show that the version of the Government servants is correct. Two of the police constables, namely, Samudha Ram and Ram Gopal, had received injuries on their foot as detailed below:—

#### Samudha Ram

One stab wound  $\frac{1}{2}'' \times \frac{1}{8}'' \times \frac{1}{4}''$  on back of the foot slightly behind the web between great toe and 2nd toe of right foot, freshly bleeding.

#### Ram Gopal

Punctured wound irregular on sole of right foot  $\frac{1}{4}''$  irregular in the middle.

The two constables could not have received the injuries on that part of their body had they been wearing their boots. The suggestion that those injuries must be self-suffered has only to be stated in order to be rejected.

The witnesses for the Nihangs and the S.G.P.C. have been disbelieved on so many points. It is difficult to place reliance on

their statements so far as this act of alleged sacrilege is concerned. It has come in evidence that the shrine of Gurdwara Paonta Sahib is greatly respected not only by the Sikhs but by Hindus and members of other communities also. None of them could, therefore, be expected to commit such an act of sacrilege particularly after instructions had been given that police constables must not carry leather belts and boots inside Gurdwara Sahib.

It has come in the statement of Santa Singh that immediately after the incident the public at Paonta had become very much agitated and large number of rumours were being circulated. It was stated by Sampuran Singh (witness No. 43) that he is a resident of Dehra Dun and had received information on 23rd May, 1964, about the incident and had rushed immediately to Paonta Sahib on his scooter. An Action Committee was formed which collected subscriptions from the Sikhs. Sampuran Singh was a member of that Action Committee. The false allegations regarding

- (i) the number of Nihangs who lost their lives;
- (ii) the wearing of leather boots and belts by the police constables when they went inside Darbar Sahib; and
- (iii) the firing inside Darbar Sahib and Harmandir Sahib appear to have been made merely to agitate the public mind and to make out a case for judicial enquiry.

No act of  
Sacrilegious  
nature com-  
mitted.

In the result I find that no act of sacrilegious nature was committed in relation to Shri Gurdwara Paonta Sahib during and after the incident. The question of any act of sacrilegious nature being wilfully and deliberately committed does not arise.

### Clause (e) of the Reference

All the connected matters have already been dealt with by me under clauses (a) to (d) of the Reference.

Conclusions,  
Responsi-  
bility for the  
unfortunate  
Incident.

The responsibility for this most unfortunate incident falls on the Nihangs and their leader Jathedar Harbhajan Singh. The Jathedar and the Nihangs had occupied the Gurdwara by force and had decided to retain possession over it. They completely disregarded the orders of the court of the District Judge, Sirmur, within whose jurisdiction this Gurdwara lay. In their eagerness to retain possession over the Gurdwara they decided to defy it and to "kill or be killed".

Conduct of  
the Public  
Servants.

Both Sri K. R. Chandel, the then Deputy Commissioner of Sirmur, and the Superintendent of Police, Sirmur, right from 2nd April, 1964, acted with great restraint and caution as they should have done in the case of disputes relating to a religious institution. Sri K.R. Chandel, who was at that time the Deputy Commissioner, Sirmur, tried his best to impress upon the parties—Jathedar Harbhajan Singh and Mahant Gurdial Singh—the need to settle the dispute amicably. He failed because the leader of the Nihangs refused to accept his advice.

During the course of the enquiry nothing could be established which might show that any of the Government servants deputed to work inside Gurdwara Paonta Sahib did not discharge his duties in a proper manner.

In conclusion I would like to record my appreciation of the valuable assistance received by me from my Secretary, Sri P. N. Harkauli, the members of the staff attached to me, and the counsel who appeared before me, particularly Sri M. M. Chaturvedi, Sri B. S. Chawla, Sri Bahadur Singh, Sri B. S. Mehgowalia and Sri Shrawandeo.

Dated: March 29, 1965.

S. D. KHARE,  
The Commission.

# LIST OF NIHANGS WHO RECEIVED INJURIES

1. Nihal Singh, Ex.A. 47 (i) Bullet wound  $\frac{3}{4}$ " round with intervening leg? on back of left thigh in the centre of inferior glutial line. F.B. (?Bullet) is palpable under the skin in front of abdomen in right paraumbilical region.  
(ii) Lacerated wound on dorsem of left ring finger with fracture of phalanges.
2. Ajit Singh, Ex.A.62 (i) Bullet wound on the right (18 years). glutial region fresh below the iliac crest on outer side.
3. Gurbachan Singh, Ex.A.63 (i) Bullet wound on left shoulder (55 years). outer side with swelling in the supra clavicular region going to supra spinous space.  
(ii) Lacerated wound of left hand ring and middle finger badly mutilated. Muscles tendons and other soft structures with bone pieces lying in the wound.
4. Karaka Singh, Ex.A.64 (i) Contus on  $3" \times 1"$  on right (25 years). arm outer aspect about  $3"$  below shoulder joint.  
(ii) Lacerated wound  $\frac{1}{2}" \times \frac{1}{4}"$  dorsem of left middle finger over proximal inter phalangeal joint.  
(iii) Contusion  $3" \times \frac{1}{2}"$  along outer border of Rt. scapula.  
(iv) Oblique contusion  $4" \times 1"$  on right thigh outer side just on greater trachanter.
5. Harnam Singh, Ex.A.65 (i) Left eye lid Black. (52 years).  
(ii) Contusion  $3" \times \frac{1}{2}"$  on right Back Scapular region Scapular region vertical.

			(iii) Bruise on left knee $\frac{1}{2}$ " irregular.
6.	Gurbachan Singh, 25 years.	Ex.A.65	(i) Contusion on left eye Brown with small skin laceration Bleeding. (ii) C.W. $\frac{1}{2}$ " $\times$ $\frac{1}{8}$ " on back of head left occipital region slightly bleeding. (iii) Small lacerated wound on Rt. middle finger nail. (iv) Contusion on left temple $1\frac{1}{2}$ " $\times$ $\frac{1}{2}$ ".
7.	Hari Singh, 40 years.	-do-	(i) Puncture wound $\frac{1}{4}$ " $\times$ skin deep on outer aspect of Right arm above the condyle. (ii) Contusion $1\frac{1}{2}$ " $\times$ $\frac{1}{2}$ " on left ulna forearm below elbow. (iii) Contusion on left shoulder acromion tip $\frac{1}{2}$ " round. (iv) Contusion $3$ " $\times$ $\frac{1}{2}$ " on left scapula middle. (v) Bruise $\frac{1}{4}$ " round on 4th dorsal spine. (vi) Contusion on left thigh above knee $2\frac{1}{2}$ " $\times$ $\frac{1}{2}$ ". (vii) Contusion on right skin lower third $3$ " $\times$ $\frac{1}{4}$ ". (viii) Bruise on left foot Back $\frac{1}{2}$ " round.
8.	Daya Singh, 26 years.	-do-	(i) L.W. $\frac{3}{4}$ " $\times$ $\frac{1}{8}$ " $\times$ skin deep on left molar vertical bleeding. (ii) Contusion on Rt. Elbow tip $\frac{1}{2}$ ". (iii) Contusion $\frac{1}{2}$ " round on Lt. hand back towards little finger. (iv) Bruise $\frac{1}{2}$ " $\times$ $\frac{1}{4}$ " on back of Rt. forearm, lower third ulnar aspect. (v) Bruise $\frac{1}{2}$ " on Lt. thigh middle Back. (vi) Contusion $\frac{1}{2}$ " round on left scapular spine.
9.	Dharam Singh, 50 years.	-do-	(i) C.W. $\frac{1}{4}$ " $\times$ $\frac{1}{8}$ " $\times$ $\frac{1}{2}$ " skin deep on Rt. Traqus of ear. (ii) Bruise on right skin $2\frac{3}{4}$ " $\times$ $\frac{1}{4}$ ".
10.	Pritam Singh, 50 years.	-do-	(i) Fracture of Rt. forearm lower third with contusion over it and swollen. (ii) Contusion on Lt. sohulder tip $\frac{3}{4}$ " $\times$ $\frac{1}{2}$ ".



- (iii) Contusion on Lt. shoulder  $3\frac{1}{2}" \times \frac{1}{2}"$  oblique outer aspect.
- (iv) 1. Contusion  $6" \times \frac{1}{2}"$  transverse.  
2. Contusion  $7" \times \frac{1}{2}"$ , Both on left scapular region. The first contusion was oblique upwards and medial-wards from No. 2 of No. 4.
11. Pargat Singh, Ex. A.65 12 years. (i) Bruise  $\frac{1}{2}" \times \frac{1}{4}"$  with peeled off superficial skin on Rt. 6th intercostal space below Nipple.
12. Gurbachan Singh, -do- 35 years. (i) Contusion  $\frac{1}{2}"$  round on left hand Back above little finger.  
(ii) Bruise on Lt. inner Hamstrings  $\frac{1}{2}" \times \frac{1}{4}"$ .
13. Gurbachan Singh, -do- 35 years. (i) Bruise on Rt. Elbow  $\frac{1}{4}"$  round.  
(ii) Bruise right knee joint  $\frac{3}{4}"$  irregular.
14. Sunder Singh, 80 years. (i) Bruises on both knees irregular.  
(ii) Bruises on all toes of left foot irregular.  
(iii) Bruises on all toes of right foot irregular.  
(iv) Bruises on left hand back irregular.

## INJURIES OF DEAD NIHANGS

Ex.A-60/1. *Nihang No. 1.*

*Injury No. 2.*

One Bullet entry wound  $\frac{1}{2}"$  round on right cheek middle traversing the mouth to the left angle of the mouth with a slit tear of  $1"$ , on way fracturing upper jaw into four pieces and lower jaw into four pieces and lacerating the tongue.

*Injury No. 1.*

Irregular bruise  $3\frac{1}{2}" \times \frac{1}{2}"$  on outer aspect of right thigh upper third/upwards and backwards.

Ex.A-61/2. *Nihang No. 2.*

*Injury No. 3.*

One bullet entry wound  $\frac{1}{2}"$  round on the back below right scapular lower angle and its exit wound  $\frac{3}{4}" \times 1"$  oval on the back below the left scapular lower angle. The bullet tunnelled the skin all along and fractured the 9th and 10th right ribs at the entrance.

*Injury No. 6.*

Bullet wound  $\frac{1}{2}$ " round right supra scapular fossa piercing down into the apex of the lungs after fracturing 2nd and 3rd ribs and injured the lung tissue down to the base where the bullet was found flattened.

*Injury No. 1.*

Contusion  $2" \times \frac{1}{3}"$  right thigh middle outer aspect irregular, slightly/upwards and medialwards. Irregular bruise  $2\frac{1}{2}" \times 1\frac{1}{4}"$  left hand back.

*Injury No. 4.*

Lacerated wound  $\frac{3}{4}" \times \frac{1}{3}"$  on outer border of left eye-brow.

*Injury No. 5.*

Bruise  $1" \times \frac{1}{4}"$  on forehead middle above the root of the nose at the meeting of the eye-brows in the middle.

Ex.A-60/3.

*Nihang No. 3.*

One bullet entry wound  $\frac{1}{2}"$  round on right lumbar region  $1\frac{1}{2}"$  above the iliac crest and  $2"$  from spine, entering the abdomen. On opening the abdomen bullet track was through the ascending colon, meso-colon, perforating ilium at two places and jejunum at one place and the omentum between the stomach and transverse colon.

## INJURIES SUSTAINED BY GOVERNMENT SERVANTS

1. Jagdish Chand, Ex.A66. 25 years. One incised wound elliptical on outer aspect of his right forearm middle  $7\frac{1}{2}" \times \frac{1}{2}"$  slanting for  $5"$  cutting the soft parts to the bone from below upwards, freshly bleeding profusely with hanging skin and soft parts.
2. Samadha Ram, Ex.A67. C. No. 803. 39 years. One stab wound  $\frac{1}{2}" \times \frac{1}{8}" \times \frac{1}{4}"$  on back of the foot slightly behind the web between great toe 2nd toe of right foot freshly bleeding.
3. Baldev Singh, Ex.A68. C. No. 116, 22 years.
  - (i) Incised wound  $6\frac{1}{2}" \times \frac{1}{8}" \times$  Bone Deep on vertex of head in antero posterior direction profusely bleeding.
  - (ii) I.W.  $2\frac{1}{2}" \times \frac{1}{2}" \times \frac{1}{8}"$  Bone deep in front on the head from hair line with slope downward, oblique upward and medialward.
  - (iii) I.W.  $3" \times \frac{1}{8}" \times$  skin deep on right forearm outer aspect oblique upwards and outwards towards the radial side bleeding.

- (iv) I.W.  $1\frac{1}{4}'' \times \frac{1}{8}'' \times \text{skin deep}$  on left popliteal fossa oblique bleeding.
- (v) I.W.  $4'' \times \frac{1}{8}''$  skin deep on left shoulder transverse on the back transverse over supra spinous space of scapula.
- (vi) Stab wound  $\frac{1}{2}'' \times \frac{1}{4}'' \times \frac{1}{4}''$  on left subcalvian region near the middle of it bleeding.
- (vii) I.W. on right shoulder blade at its lower angle transverse  $4\frac{1}{2}'' \times \frac{1}{8}'' \times \frac{1}{2}''$  skin deep bleeding.
- (viii) One stab wound  $\frac{1}{2}'' \times \frac{1}{8}'' \times \text{skin deep}$  on right ankle inner side bleeding. All the wounds were bleeding. Condition of collapse.
4. Roshan Lal, Ex.A69. (i) I.W. on right eye brow outer half  $\frac{3}{4}'' \times \frac{1}{8}'' \times \text{skin deep}$  transverse with a dent in the bone underneath freshly bleeding.
- (ii) I.W.  $1\frac{3}{4}'' \times \frac{1}{8}'' \times \frac{1}{2}''$  skin deep on left 8th rib oblique in Nipple line.
- (iii) I.W.  $1\frac{1}{4}'' \times \frac{1}{2}''$  skin deep on left arm outer aspect.
- (iv) I.W.  $\frac{3}{4}'' \times \frac{1}{8}'' \times \frac{1}{2}''$  skin deep on right shoulder.
- (v) I.W. on left hand forefinger middle finger and ring finger last digit in a straight line with slanting downward cut skin deep cutting the front facets freshly bleeding.
5. Het Ram, Ex.A70/1. (i) One triangular I.W.  $\frac{1}{4}'' \times \frac{1}{2}''$  H.C. 11, skin deep on left middle finger. 27 years.
- (ii) Contusion  $2\frac{1}{2}'' \times \frac{1}{2}''$  on left shoulder in Anterior Posterior direction.
6. Gian Chand, -do- (i) One superficial sharp edged linear I.W.  $\frac{1}{2}'' \times \frac{1}{2}''$  skin deep on right elbow outer aspect oblique. 24 years.
7. Chuhi Ram, (i) I.W.  $1\frac{1}{4}'' \times \frac{1}{8}'' \times \frac{1}{2}''$  skin C. No. 132, deep on left 2nd Carpal bone 45 years. of back.

- (ii) Contusion  $3\frac{1}{2}" \times \frac{1}{2}"$  on left forearm lateral aspect below elbow oblique upwards and lateral wards.
8. Rirku Ram, Ex. A70/1. (i) Round contusion  $1\frac{1}{4}"$  on C.No. 20, left outer ankle. 28 years.
- (ii) Small irregular bruise on left hand Back 1st Kunckle of ring and little finger.
9. Panna Lal (i) C.W.  $\frac{1}{2}"$  on left knee No. 290, irregular. 21 years.
- (ii) Bruise  $\frac{1}{2}"$  below left knee.
- (iii) Contusion  $3" \times \frac{1}{2}"$  on right forearm back oblique upward and outward.
10. Abdul Majid, (i) I.W.  $\frac{3}{4}" \times \frac{1}{6}" \times$  skin deep on C. No. 122, left wrist oblique upwards 23 years. and medialwards.
- (ii) I.W.  $3" \times \frac{1}{6}" \times \frac{1}{2}"$  skin deep about 1" above No. 1 irregular.
- (iii) I.W.  $3" \times \frac{1}{6}" \times \frac{1}{2}"$  skin deep on left shoulder transverse.
11. Randhir Singh, Ex. A70. (i) 1" round contusion on right C. 173, chest 10th rib in anterior 23 years. axillary line.
- (ii) One similar contusion on left 9th rib in posterior Axillary line.
- (iii) One round contusion  $\frac{3}{4}"$  on left hip lateral above trochanter.
12. Ram Chander, -do- (i) Contusion on left back 11th No. 114, rib 1" round and  $1\frac{1}{2}"$  30 years. from mid line.
- (ii) Contusion  $2" \times \frac{1}{2}"$  on left skin front lower third.
13. Mata Ram, -do- (i) 1 irregular contusion  $1\frac{1}{4}" \times \frac{1}{4}"$  C. No. 127, on back of right thumb 54 years. root.
14. Singhara Singh, -do- (i) One I.W.  $\frac{1}{2}" \times \frac{1}{6}"$  skin deep Const. No. 247, on left little finger inside tip 2ged 40 years. transverse.
15. Shandhu Ram, -do- (i) Contusion  $5" \times \frac{1}{2}"$  on left C. No. 267, back oblique on 10th rib 23 years. upward and medialward.
- (ii) One stab wound  $\frac{1}{2}" \times \frac{1}{6}" \times \frac{1}{4}"$  on outer aspect of right thigh about 2" above knee.

16. Ram Gopal, Ex. A70. (i) Stab wound  $\frac{1}{2}'' \times \frac{1}{8}'' \times \frac{1}{4}''$  on  
C. No. 66, tip of right thumb.  
30 years. (ii) I.W.  $\frac{1}{2}'' \times \frac{1}{8}'' \times$  skin deep  
on left skin middle trans-  
versers.  
(iii) Puncture wound irregular  
on sole of right foot  $\frac{1}{4}''$   
irregular in the middle.
17. Kaushal -do- (i) The Thenar eminence of  
Kumar, his right hand round con-  
C. No. 9, tusion and swelling.  
20 years. (ii) Contusion  $3\frac{1}{2}'' \times \frac{1}{2}''$  on right  
elbow outer aspect from  
above the condyle to 2"  
below elbow fold on radial  
side.
18. Abdul Rashid, -do- (i) Two contusions on right  
C. No. 85, wrist outer ulner aspect 1"  
aged 21 years. apart almost parallel oblique  
upwards and ulnar wards.  
The upper was  $2\frac{1}{2}'' \times \frac{1}{2}''$   
and lower  $1\frac{1}{2}'' \times \frac{1}{2}''$ .  
(ii) Round contusion on right  
hand back 5th carpal bone  
1" below wrist.  
(iii) One contusion  $3\frac{1}{2}'' \times \frac{1}{2}''$   
on rt. elbow outer aspect  
from above the condyle to  
2" below elbow fold radially.  
(iv) I.W.  $\frac{1}{2}'' \times \frac{1}{8}'' \times \frac{1}{2}''$  skin deep  
on back of left thumb last  
knuckle.  
(v) Contusion  $3'' \times \frac{1}{2}''$  on left  
forearm back radial  
aspect oblique upwards  
and outwards.
19. Sh. Davinder -do- (i) Lineer I.W. on left hand  
Datt, 4 fingers inner aspect ex-  
C. No. 26, tending from mid knuckle  
aged 26 years. of little finger to mid space  
of index finger.  
(ii) I.W.  $2\frac{1}{2}'' \times \frac{1}{8}'' \times \frac{1}{2}''$  skin  
deep on left thigh lower  
third transverse in front  
and laterally.  
(iii) Stab wound  $\frac{1}{2}'' \times$  skin  
deep on rt. hip  $1\frac{1}{2}''$   
behind G. trocanter.  
(iv) I.W.  $2'' \times \frac{1}{8}'' \times \frac{1}{2}''$  skin  
deep on outer aspect of  
right elbow joint trans-  
verse.

- |   |  |
|---|--|
| 20. Sh. Nain Singh, Ex. A70<br>C. No. 297,<br>aged 22 years.    | (i) Contusion $3" \times \frac{1}{2}"$ on left forearm radial aspect oblique upward and outward on radial side below the elbow.<br>(ii) Round contusion $\frac{3}{4}"$ on right thigh outer aspect 1" above knee.  |
| 21. Sh. Rattan Singh, -do-<br>C. No. 159.                       | (i) Stab wound $\frac{1}{4}" \times \frac{1}{8}" \times$ skin deep on last digit back of left 2nd toe.<br>(ii) Contusion $1" \times \frac{1}{2}"$ on back of left leg transverse about 2" above the ankle.<br>(iii) Contusion 1" on left lumbar back $\frac{1}{2}"$ from mid line. |
| 22. Sh. Shib Charan Dass, -do-<br>C. No. 82,<br>aged 24 years.  | (i) I.W. $\frac{1}{2}"$ superficial on Rt. fore-finger medial aspect.<br>(ii) I.W. $1\frac{1}{4}"$ super on Rt. Forearm middle oblique upward and outwards.<br>(iii) Round contusion on Rt. elbow 1" below hip.  |
| 23. Sh. Teg Chand, -do-<br>C. No. 322,<br>aged 20 years.        | (i) 4 linear I.W. on his right palm of hand out of which 3 on hypothenar eminence and one in the middle of the palm. 3 are oblique and 4th transverse.<br>(ii) One similar I.W. on middle third of his right forearm ulnar aspect oblique upwards.                                 |
| 24. Sh. Kaku Ram, -do-<br>C. No. 285,<br>aged 20 years.         | (i) Round contusion $1\frac{1}{4}"$ on inner aspect of his right knee.<br>(ii) One contusion $3" \times \frac{1}{2}"$ on left back lumbar region oblique upward and lateral wards near mid line.   |
| 25. Sh. Sharban Kumar, -do-<br>C. No. 137,<br>aged 26 years.    | (i) Round contusion on left molar eminence $\frac{3}{4}"$ .<br>(ii) Round contusion on right ankle middle.<br>(iii) One round contusion 1" on left hip back.   |
| 26. Sh. Kirpa Ram, Ex. A70/2<br>Con. No. 184,<br>aged 27 years. | (i) Left fore-finger last digit dislocated.  |